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I. The land and the people

A. The land – Facts on topography

1. "Lesotho is a country located in the southern part of Africa, at an estimated 30,000 to 30,555 km^2 in area".[1] Lesotho is one of the countries in Southern Africa situated between 28 degrees and 31 degrees of the equator in the south, and between 27 degrees and 30 degrees in the east. This makes Lesotho a land locked country within the Republic of South Africa. In the north-west, Lesotho shares her boundary with the predominantly Sesotho and Afrikaans-speaking Free State Province, while in the south it is predominantly the Xhosa-speaking Eastern Cape Province, and in the east it is the Zulu-speaking province of Kwazulu-Natal.[2]

2. Although Lesotho is completely land-locked within the boundaries of The Republic of South Africa, Lesotho's topography is very much different to that of her neighbour. Lesotho is a mountainous country, with the highest mountain peak being Thabana-Ntlenyana. This mountain peak is estimated at 3,482 metres above sea level. Lesotho is the only country in the world with no land falling below 1,400 metres below sea level. Between the eastern plateau and the so-called lowlands in the west are the Drakensburg and Maloti range mountains which rise to nearly about 3,500 metres. These mountains are drained by rivers which flow in deep gorges in a south-westerly direction. The remaining one quarter of the land of the country is lowlands, with altitudes between 1,500 and 2,000 metres. Twenty-Five percent (25%) is the lowland and seventy five percent (75%) is highland area. This makes Lesotho to have the highest-lowest point of any country in the world. The country is showing serious erosion caused by chronic overgrazing and over harvesting of natural plantations, which is estimated at 150 to 300 per cent. The rural highlands have severe winter seasons, with heavy snowfalls, that often cut off the population in those areas from basic health services and food supplies. Arable land that is available is limited to 9 percent. The available arable land stands at 700 persons per square metre-kilometres.

B. The people

The Population

3. The 2006 national census gave a de jure population estimate of 1,876,633, being an estimate of 1.88 million according to the 2006 housing and population census.[3] There has been a substantial population decline from the annual growth rate of 1.5 percent during the period 1986 to 1996 at an annual growth rate of 0.08 percent. The annual population growth rate is estimated at the rate of 0.116 percent. "The projected population growth rate according to the1986 census was estimated at a natural growth rate of 2.6 per cent. The projections put this figure at 2.8 per cent for the 1996 census. This population growth rate has not been as it was projected, because of the prevalence of the HIV and AIDS pandemic. The population growth rate has been depressed by the scourge of the HIV and AIDS pandemic, which has shown a very steep increase. The HIV and AIDS infection rate for Lesotho is currently estimated to be between 23. 3 percent and 23.6 percent among the adult population of Lesotho." The heavy economic migration of most Basotho to The

[1] Source: Varying figures given by Initial Report ICCPR, Lesotho 2010 Millennium Development Goals Report and Kingdom of Lesotho Universal Periodic Review Report – 8th Session 2010, Human Rights Council.

[2] Initial Report – ICCPR.

[3] Household Survey and Population Census Report 2006: MDG'S Status Report 2008.

Republic of South Africa in search of job opportunities has significantly affected the population census of Lesotho. As a result, most people happen to be away from home during the census period. Human trafficking has contributed a small percentage of about 0.1 to the distortion of Lesotho's population census. Due to challenges of unemployment, the youth, and young women, have found themselves being trafficked to other foreign places, for sexual exploitation, pornography, and cheap labour, in the pretext that they will be offered good employment. The female population literacy rate is estimated to be between 84.8% as at 2003 and 76% as at 2009.

C. Demographic data

Estimated Total Population for the 2006 census

4. The 2006 population and housing census of Lesotho recorded a total of 1,876,633 inhabitants, made up of 912,798 males and 963,835 females. There was an increment of 388,362 people between 1976 and 1986, from 1986 to 1996 the population increased by 257,098 people and by 14,358 people for the period 1996 to 2006.

The Estimated total population for 2006:	1,876,633
The total estimated female population for 2006:	963,835
The total estimated male population for 2006:	912,798

5. The table I have below shows the distribution of population by age and sex in Lesotho according to the 2006 population census.

Table 2.1
Household Population – Distribution of Household Population by Age and Sex, 2006 Census

	Lesotho			*Male*			*Female*			*Percent*		
Age Group	*Total*	*Present*	*Absent*	*Total*	*Present*	*Absent*	*Total*	*Present*	*Absent*	*Total*	*Male*	*Female*
0-4	201,995	198,910	3,085	101,397	99,913	1,484	100,598	98,997	1,601	10.8	11.2	10.5
5-9	211,947	209,341	2,606	106,695	105,387	1,308	105,252	103,954	1,298	11.4	11.8	11.0
10-14	220,938	217,815	3,123	110,778	109,352	1,426	110,160	108,463	1,697	11.9	12.2	11.5
15-19	229,389	221,492	7,897	114,800	110,850	3,950	114,589	110,642	3,947	12.3	12.7	12.0
20-24	207,062	188,216	18,846	101,385	88,766	12,619	105,677	99,450	6,227	11.1	11.2	11.0
25-29	164,867	144,156	20,711	82,202	67,177	15,025	82,665	76,979	5,686	8.9	9.1	8.6
30-34	119,530	102,967	16,563	60,107	47,805	12,302	59,423	55,162	4,261	6.4	6.6	6.2
35-39	93,490	79,554	13,936	45,645	35,238	10,407	47,845	44,316	3,529	5.0	5.0	5.0
40-44	83,299	69,545	13,754	39,596	29,278	10,318	43,703	40,267	3,436	4.5	4.4	4.6
45-49	72,621	61,153	11,468	34,102	25,356	8,746	38,519	35,797	2,722	3.9	3.8	4.0
50-54	63,084	55,078	8,006	28,723	22,898	5,825	34,361	32,180	2,181	3.4	3.2	3.6
55-59	50,148	46,200	3,948	23,225	20,402	2,823	26,923	25,798	1,125	2.7	2.6	2.8
60-64	37,699	36,179	1,520	16,724	15,798	926	20,975	20,381	594	2.0	1.8	2.2
65-69	32,028	31,308	720	13,369	13,003	366	18,659	18,305	354	1.7	1.5	1.9
70-74	35,609	35,137	472	13,380	13,162	218	22,229	21,975	254	1.9	1.5	2.3
75-79	18,141	17,984	157	6,327	6,255	72	11,814	11,729	85	1.0	0.7	1.2
80-84	10,498	10,422	76	3,251	3,213	38	7,247	7,209	38	0.6	0.4	0.8
85+	10,515	10,431	84	2,686	2,657	29	7,829	7,774	55	0.6	0.3	0.8
Total	**1,862,860**	**1,735,888**	**126,972**	**904,392**	**816,510**	**87,882**	**958,468**	**919,378**	**39,090**	**100.0**	**100.0**	**100.0**

Source: Household Survey and Population Census Report of 2006.

Population census of 2006

Rural and Peri-Urban Dispersion

6. Most people, about 77 percent of the population reside in the rural areas of the country while the rest are located in peri-urban areas. This resulted in a significant rise in the peri-urban population from 16.9 percent in 1996 to 22.6 percent in 2006. The lowlands have the largest share of population throughout all the inter-censal periods 1976 to 2006 whereas senqu river valley has the smallest share. In addition, looking at the distribution by district, Maseru is the most rapidly growing district in Lesotho in the last three decades, while Qacha's -Nek has experienced the least population growth throughout all the census. For the period 1986 to 1996, almost all the districts gained in population, Berea gained the highest followed by Maseru, while Bothe-Bothe had the lowest population change. For the period 1996-2006, Mokhotlong gained in population by 13.0 percent while Mafeteng lost in population by 9.8 percent.

Urban Population

7. In Lesotho the majority of the people are concentrated in the lowlands, resulting in very high population densities. For instance, Berea has 112 persons per square kilometre. Maseru which is the capital city of Lesotho has the highest arable land density of 902 persons per square kilometre, while Thaba-Tseka has the least density of arable land with 485 persons per square kilometres. The settlement pattern Lesotho is predominantly rural, with the majority of the people living in small settlements. Lesotho's population growth is not only a danger to the arable land. The results of the population census of Lesotho for the year 2006, are outlined in the table below.

Table 2.2
Selected Demographic Measures of Lesotho, 1996-2006

	Census Year			
Measure	*1976*	*1986*	*1996*	*2006*
% of population <15	40.9	41.5	38.6	34.1
% of population 65+	5.3	5.3	4.9	5.7
Overall Sex ratio	93.3	95.5	95.6	94.7
Sex ratio at birth		102.2	102.4	102.4
Average Household size	5.0	5.1	5.0	4.4
% of population urban	11.5	15.0	17.1	22.6
Age dependency Ratio	45.2	46.4	43.0	40.0

Table 2.3
Percent Distribution of Population under 10 years of Age by Sex: 1986-2006

	1986			*1996*			*2006*		
Age	*Total*	*Male*	*Female*	*Total*	*Male*	*Female*	*Total*	*Male*	*Female*
Total	**449,383**	**226,251**	**223,132**	**433,078**	**218,700**	**215,378**	**415,022**	**208,634**	**206,388**
0	50,965	25,756	25,209	38,325	19,388	18,937	43,549	22,031	21,518
1	37,773	19,289	18,484	35,372	18,392	17,980	41,280	20,732	20,548
2	42,550	21,567	20,983	38,991	19,590	19,401	40,274	20,174	20,100

	1986			1996			2006		
Age	*Total*	*Male*	*Female*	*Total*	*Male*	*Female*	*Total*	*Male*	*Female*
3	47,300	23,753	23,547	41,410	20,695	20,715	39,674	19,821	19,853
4	46,763	23,318	23,445	44,411	22,284	22,127	38,077	19,085	18,992
0-4	225,351	113,683	111,668	198,509	100,349	99,160	202,854	101,843	101,011
5-9	224,032	112,568	111,464	234,569	118,351	116,218	212,168	106,791	105,377
				Percent Distribution					
Total	**100**	**100**	**100**	**100**	**100**	**100**	**100**	**100**	**100**
0	11.3	11.4	11.3	8.8	8.9	8.8	10.5	10.6	10.4
1	8.4	8.5	8.3	8.2	8.4	8.3	9.9	9.9	10.0
2	9.5	9.5	9.4	9.0	9.0	9.0	9.7	9.7	9.7
3	10.5	10.5	10.6	9.6	9.5	9.6	9.6	9.5	9.6
4	10.4	10.3	10.5	10.3	10.2	10.3	9.2	9.1	9.2
0-4	50.1	50.2	50.0	45.8	45.9	46.0	48.9	48.8	48.9
5-9	49.9	49.8	50.0	54.2	54.1	54.0	51.1	51.2	51.1

Source: 1986, 1996, and 2006 Population and Housing Censuses of Lesotho.

Vital indicators in 1986, 1996 and 2006

		1986	*1996*	*2006*
(a)	Crude birth rate (per 100 population)	37	30.0	
(b)	Crude death rate (per 100 population)	11.6	12.8	
(c)	Rate of natural increase (per 100 population)			
(d)	Doubling time (in years)			
(e)	Estimated total number of live births			
(f)	Life expectancy years	55	59	
	Female	56.7	60.2	
	Male	49.3	58.6	
(g)	Infant mortality rate (per 1,000)	85	74	
(h)	Child mortality rate (per 1,000)			
(i)	Maternal mortality rate (per 100,000 live births)			
(j)	Age dependency ratio			
(k)	Sex ratio (overall)			
(l)	Total fertility rate			

8. Fertility rate has been declining in Lesotho since 1986. The 1986 fertility rate was 5.3 percent. In 1996 it declined to 4-1% in 2004 3.5% children per women was noted in 2004.The mortality rate on the other hand seems to seemed to be rising between 1986 and a few years thereafter. But, in 1996, the life expectancy at birth declined from fifty-nine (59) years for both males and females, to forty-two point four (42.4) years in 2006.

The table below shows the population sex ratios by district since 1986

District	*1986*	*1996*	*2006*
Butha-Buthe	94.4	97.8	97.5
Leribe	95.9	95.5	95.4
Berea	95.2	95.4	95.1
Maseru	93.3	93.8	91.3
Mafeteng	96.6	97.2	98.8
Mohale's-Hoek	95.6	95.0	96.3
Quthing	95.0	94.7	95.2
Qacha's-Nek	93.4	92.9	92.3
Mokhotlong	98.8	97.4	96.9
Thaba-Tseka	98.9	98.9	97.0
Total	**95.6**	**95.6**	**95.0**

Source: UN Report 2006

D. The Resources

Diamond Mining Sector

9. Some mineral deposits exist in Lesotho. Mineral deposits that exist include diamonds, uranium, base metals, high quality sand stone, and clay. The Government has made policy initiatives aimed at greater private sector participation in the mining industry. A great interest has been generated in the mining sector, with new companies opening up new mining ventures. The Lesotho Geological Survey has identified thirty-three (33) kimberlitic pipes and one hundred and forty dykes (140), of which twenty-four (24) are diamondiferous. When the Lets'eng mine commenced operations, The Lets'eng -la- Terae Mine, owned by Lets'eng -la- Terai Company, had a 76 per cent shareholding in the company, and twenty- four (24 per cent) being owned by the Government of the Kingdom of Lesotho.[4] Being at an altitude (elevation) level of more than 3,000 metres above sea level, Lets'eng diamonds is one of the world's highest altitude diamond mines, situated at 3,100 metres above sea level, high in the Maluti Mountains in Lesotho. Since 2005, Seventy percent (70%) of the Lets'eng shareholding is owned by Gem Diamonds Ltd (Pty), while thirty percent (30%) is owned by the Government of Lesotho.[5] The mine has been in commercial operation since 2004, and it has a total capacity of 5 Million tons per year. This mine has a recovery of approximately 100,000 carats per year, which makes it the seventh largest timber- lite mine in the world. The initial estimated production was fifty thousand (50,000) carats per year. Mine Gem carried out testing of the Liqhobong kimberlitic pipes, and a feasibility study on mining prospects in the area was completed. The mine is now in operation. Mothae mining has also been opened. Presently registered mining companies and their shareholding stands as follows: Lets'eng - la- Terai holds 70% of the shareholding, while the Government holds 30%. Liqhobong Mining Development Company holds 75% of the shareholding, while the Government holds 25%. NamakwaBatla Diamonds (Kao) holds 93% of the shareholding, while the Government holds 7%. Mothae Diamonds holds 75% of the shareholding, while the Government holds 25%. Loti Brick holds 98%

[4] MDG Status Report 2008

[5] Source: Commissioner of Mines.

shareholding and the Government 2%. Emanating from the findings of the study, it was estimated that at full operation, the mine will produce an average of 300,000 carats of diamonds per year, for a five year period. The diamond production index rose from around sixty (60 points) in 2005 to five hundred and forty-nine point four (549.4 points) in 2008 reflecting a continued buoyancy in the diamond industry. Growth is likely to be boosted, following reports of further diamond discoveries by other prospecting mines. The mining sub-sector has increased from 0.2 in 2001 to 6.7 percent over this period with an annual growth rate of 1.6 percent.

Other Mineral Resources

10. The viability of mining Lesotho's reserves of uranium, base metals and clays is being evaluated. Reserves of coal and bituminous shall also have been identified in several areas, and shall also have been identified in several areas of the country (SADC Review 2006).

Water Resource

11. Lesotho has water in abundance hence it has agreed to provide the Republic of South Africa with some. In order to formalize the agreement, The Lesotho Highlands Development Authority Order No. 23 was enacted in 1986, and this order established the Lesotho Highlands Water Project (LHWP). The project was a joint venture between the two governments of the Government of the Kingdom of Lesotho and the Government of the Republic of South Africa. The project started in 1986 and ended in 1996, while its defect liability period ended in 2006. The Lesotho Highlands Water Project (LHWP) has been the main driver of investment that has provided macroeconomic stability for the country. The LHWP in the years 2005 to 2009 has made the following major achievements: Over the ten year span of the project cycle, in the period from 1987 to 1997, the Lesotho Highlands Water Project (LHWP), contributed to the domestic economy in excess of 6% of the Gross Domestic Product growth (GDP), and gained macroeconomic stability for the country's economy.

E. Employment

Employment Trends

In Lesotho the employment trends are as shown in the table below

Year (DEC)	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*
Employment	49,084	46,633	42,120	37,973	43,398	47,204	25,944

Source: Lesotho National Development Corporation (LNDC).

12. The employment indicators as shown in the above table in Lesotho, show that there has been a constant and a relatively stable record in the employment sector in the years 2003 to 2008. A very sharp decline took place in the year 2009, mainly because of the economic crisis that also affected the Lesotho foreign export market. The statistical data of people who are employed in the public service, the private sector, the manufacturing sector and the informal sector are as shown in the table below:

Public Sector

13. The Government of Lesotho is the largest employer, constituting 10 per cent of the employment sector. The role of the Government as Lesotho's biggest employer is however

on the decline, because of economic regression in the country and privatisation of some services.

Private Sector

14. The Government of Lesotho recognises the significance of private sector development in reducing high rates of unemployment and promoting sustainable economic growth. The role played by the private sector development in economic growth and its impact on eradicating poverty is currently at the centre of national development plans of many countries around the world. Private enterprises do not only promote economic growth and reduce poverty, but they contribute greatly in the provision of employment opportunities for the poor, and a better standard of living. This means that supporting the private sector development through conducive environment and increased entrepreneurial capacity building is a critical step towards the achievement of sustainable economic growth in Lesotho.[6]

Informal sector

15. In the informal private sector, trade activities are undertaken by individuals who are regarded as self-employed. They work as street vendors, farmers, domestic workers and in a very wide range of other activities. According to World Development Report (WDR) of 2005, private sector entities invest in new markets and new facilities that help strengthen the infrastructural foundation of the economy which, in turn, lays a good foundation for attracting investors from abroad and facilitating achievement of economic growth. The private sector development also helps in reducing unemployment and corruption which have far reaching implications for both economic and social lives of the country's population. Jobs and incomes created by the private sector enterprises lead to economic diffusion of growth by having a direct impact on poverty alleviation. Private Sector is also the main source of tax revenue, contributing to public funding of health care, clean drinking water, food and agricultural inputs such as seeds for the poor, and satisfying other demands.[7]

Migrant Workers

16. Lesotho's location within the boundaries of The Republic of South Africa has played a key role in determining its employment parameters. The South African gold mines have traditionally employed significant numbers of the Basotho people. Lesotho exports about 116,129 unskilled labourers (about 22.7 per cent of the total labour force) to South Africa of whom 94,292 are employed in the mines. Owing to increased redundancies from the mines, the number of migrant workers employed in the mines has been steadily decreasing, from around sixty-five thousand (M 65,000-00) in 2000, to fifty-three thousand (M 53,000-00) in 2005. Many Basotho miners have as a result faced retrenchment. The retrenchment of the migrant labourers has resulted in the high unemployment rate and the lack of alternative sources of income.

17. According to the Household Survey data, unemployment remained high at 23.2 (42.1) percent in 2008. In 2002 to 2003 the total labour work force fell from 28.7 percent in 1994/1995. Out of this, 8.9 percent (%) were people with primary education qualifications, followed by those with non-formal education at 7.9 percent. An unemployment rate for males was 14.7 percent, while for women it was 8.5 percent. The unemployment situation in Lesotho does not seem to have improved since 1994 to 1995. In 2002 to 2003, the

[6] Extract information from Economic Review November, 2009 Central Bank of Lesotho.
[7] Ibid note 6 above.

proportion of unemployment for men and for women was estimated at 7.1 percent and 4.6 percent. The unemployment ratios as at 1994 to 1995 for males and females was respectively 7.7 percent to 3.9 percent. The unemployment percentage in the years 2008 to 2009 was estimated to be 24.6 percent in 2008 to 33.1 percent in 2009. People in urban areas are more often employed with a salary than in rural areas, where people are mostly engaged in subsistence farming.

18. The economic crisis has had an impact on the rate of loss of employment, and this has had an impact on the unemployment level. The ever fluctuating exchange rate of the rand in the years 2008 to 2010, has also affected the employment rate in Lesotho.

19. According to the African Peer Review Mechanism Report (APRM), remittances from the Republic of South Africa has accounted for about half of the GDP in the 1980's. These remittances have shrunk to about one fifth of the GDP lately.

20. Since many citizens of Lesotho have migrated to the RSA for work especially in the mines, it is important to note that the GOL offers these workers some protection. A Labour Agreement between Lesotho and the RSA was made in the 1970s ensuring that the Basotho were entitled to all labour rights provided in the 1992 Labour Code Order. Items regarding employment of Lesotho citizens outside of Lesotho are contained under Parts X and XI of the 1992 Labour Code, Part X, sections 138 through to 152, addresses Labour Agents, and Part XI, sections 153 through to 164, addresses Contracts of Foreign Service other than those entered into by or on behalf of Government.

F. Education

21. Lesotho is one of the few African countries in Sub-Saharan Africa with the highest rate of primary school enrolment at 84 percent. The Government of Lesotho has recently enacted the Education Act No. 3 of 2010 which provides the right to free and compulsory education. This has been seen as a promising milestone in achieving the Millennium Development Goals for Universal Primary Education. Free Primary Education was already introduced in the year 2000, as a major strategy towards achieving Universal Primary Education and Education for All goals. But, because it was not compulsory, some parents were still not taking children to school, but were engaging them in cheap and hazardous work such as being herd-boys. The strategy has also gone far to meet the Millennium Development Goals (MDG'S). According to Lesotho Millennium Development Goals Report of 2010, the enrolment of primary school children increased from 60 per cent in 1999 to 82 per cent in 2000. The enrolment rate increased to a further level of 83.9 per cent in 2006. The adult literacy rate is also currently estimated at 72 per cent. Lesotho has to this extent been noted to have made significant strides in the education sector.[8]

22. The constitution of Lesotho of 1993 in section 3(1) states that, "the official languages of Lesotho shall be Sesotho and English". These are also the two official teaching languages in the schools, from primary school, secondary school, high school, tertiary, vocational and tertiary level. The opening of many English medium schools has also called for the high use-of-the-English-language in schools.

23. The Ministry of Education is in charge of the primary schools syllabus as well as the setting of standard 7 final year of primary school examinations. Secondary education takes three years and it is run jointly with the Education Ministry of the Kingdom of Swaziland. The high school level, which takes two years after the secondary level, is the sole responsibility of Cambridge University in England, but the system is gradually being

[8] Summary and extracts from MGD Report 2010.

localized. The high school level is again a channel into institutions of higher learning such as the university, teacher training college and technical and vocational schools.

24. According to the 2006 statistics, Lesotho has about 1,455 primary schools with an enrolment of 424,855 pupils, roughly split between the males and the females, with 10,418 teachers of whom 6,141 are qualified teachers. There are about 240 secondary schools with 94,545 students, and 3,673 teachers, of whom 2,651 of them are fully qualified teachers. The female student population is in the majority at this level. There were 2,597 students in various post-secondary institutions. At the university level there were 6,726 students, 52 percent of them male and 48 percent female. Additional students at secondary, post-secondary and university level study abroad. The Government provides financial subsidy to a-both-Government-schools-and-privately-owned-schools.

25. At primary school enrolment by districts for the period 2004-2006. It is indicated in the Table that Maseru had the highest enrolment, 89,238 followed by Leribe with 66,728 then Berea with 54,935, and Mafeteng followed with 45,576. Qacha' Nek had the lowest enrolment of 18,589 pupils.

26. Gender disparity according to district and region was also observed. In the lowland districts more boys were enrolled compared to girls, while the opposite was found in the mountains.

27. Churches own and operate 84 percent of the primary schools. The Government and the community own 10 percent and 4 percent, respectively. Like in the previous years, the Roman Catholic Mission (RCM) had the highest number of primary schools. Its share was still 36.0 percent, only 3 percentage points higher than the Lesotho Evangelical Church (LEC). Among the churches, RCM, LEC and ACL, respectively owned 514, 484 and 176. Government owned 1,145. There were only 6 private schools. The total number of Schools increased steadily from 1,283 when FPE started to 1,412 in 2004 and 1,419 in 2006. A further increase of 1,455 was observed in 2006.

28. The distribution of schools by districts reflects that Maseru has the largest number of 248 schools, followed by Leribe with 187, while Mohale's Hoek has 168. Butha-Buthe has the smallest number with only 88 schools. Unlike enrolment, the mountain region had more schools compared to the lowlands. The mountains have many small schools scattered all over the region with a small number of pupils enrolled. Possibly this is because the difficult terrain.

Schools by District and Gender 2004-2006 in Primary Schools by District, Location and Gender 2006

	2004			*2005*			*2006*		
Districts	*Male*	*Female*	*Total*	*Male*	*Female*	*Total*	*Male*	*Female*	*Total*
Butha-Buthe	13,900	13,228	27,128	13,716	12,827	26,543	13,447	13,005	26,452
Leribe	34,626	33,076	67,702	34,683	32,148	66,831	34,622	32,106	66,728
Berea	28,472	26,193	54,665	28,336	26,108	54,444	28,732	26,203	54,935
Maseru	46,600	42,882	89,482	44,218	42,699	86,917	45,435	43,803	89,238
Mafeteng	24,222	23,128	47,350	23,789	22,501	46,290	23,486	22,090	45,576
Mohale'sHoek	19,867	20,616	40,483	19,976	20,714	40,690	19,530	20,286	39,816
Quthing	14,008	15,054	29,062	13,609	14,402	28,011	13,681	14,287	27,968
Qacha's Nek	9,316	9,666	18,982	9,071	9,419	18,490	9,195	9,394	18,589
Mokhotlong	10,020	11,386	21,406	10,203	11,657	21,860	10,636	12,195	22,831
ThabaTseka	14,731	17,018	31,749	15,082	17,120	32,202	15,359	17,363	32,722
Total	**214,762**	**212,247**	**427,009**	**212,683**	**209,595**	**422,278**	**214,123**	**210,732**	**424,855**

Tables below shows: Household Survey and Population Census Report 2006

Table 1
Number and percentage distribution of persons aged 15 years

Number and percentage distribution of persons aged 15 years and over by educational attainment and sex – Census 2006

		Males					
Age Group	*Number*	*% Std 1-6*	*% Std 7 + Voc Dip after prim*	*% Sec + non-graduate*	*Graduate*	*Non-formal*	*None*
Total	**584,527**	**35.8**	**14.9**	**29.5**	**1.3**	**0.0**	**18.5**
15-19	114,738	18.4	20.8	28.6	0	10.1	8.2
20-24	101,103	16.3	19.7	21.4	16.2	28.1	10.9
25-29	81,676	12.6	15.7	16.5	18.1	7.9	11.0
30-34	59,795	9.9	11.2	10.4	15.7	8.4	9.4
35-39	45,693	7.5	8.5	7.6	12.6	4.5	7.9
40-44	39,629	7.0	6.7	5.6	10.5	3.9	8.1
45-49	34,126	6.3	5.7	3.9	8.2	6.7	8.1
50-54	28,739	5.7	4.0	2.5	6.4	6.2	8.0
55-59	23,245	5.0	2.7	1.5	4.8	5.6	6.9
60-64	16,736	3.6	1.6	0.8	3.7	5.1	5.6
65-69	13,377	2.8	1.3	0.5	1.7	6.7	4.8
70-74	13,393	2.5	1.0	0.4	1.2	4.5	6.0
75-79	6,332	1.3	0.6	0.2	0.5	0.6	2.6
80+	5,945	1.2	0.5	0.2	0.4	1.7	2.5

Source: Household Survey and Population – 2006.

Table 2
Number and percentage distribution of persons aged 15 years

Number and percentage distribution of persons aged 15 years and over by educational attainment and sex – Census 2006

		Females					
Age Group	*Number*	*%Std 1-6*	*% Std 7 + Voc Dip after prim*	*%Sec + non-graduate*	*Graduate*	*Non-formal*	*None*
Total	**643,063**	**33.0**	**24.3**	**36.2**	**1.2**	**0.0**	**5.2**
15-19	115,071	11.2	16.9	27.2	0.0	6.5	4.8
20-24	105,674	10.8	17.4	22.3	17.6	25.5	6.6
25-29	82,404	8.0	14.6	16.8	19.0	8.8	5.6
30-34	59,218	6.3	11.6	10.7	16.6	3.7	4.4
35-39	47,950	5.6	9.2	8.3	12.3	4.6	4.0
40-44	43,781	6.9	8.2	6.0	9.7	1.9	5.3
45-49	38,589	7.5	7.0	3.8	8.9	8.3	6.2

Females							
Age Group	*Number*	*%Std 1-6*	*% Std 7 - Voc Dip after prim*	*%Sec - non-graduate*	*Graduate*	*Non-formal*	*None*
50-54	34,404	8.5	5.0	2.2	7.0	7.9	7.8
55-59	26,971	7.9	3.1	1.2	4.7	11.1	6.1
60-64	21,033	6.5	2.1	0.6	2.0	5.6	6.7
65-69	18,722	5.9	1.8	0.4	1.1	3.7	7.3
70-74	22,287	6.7	1.5	0.3	0.7	6.5	15.1
75-79	11,838	3.7	0.8	0.1	0.2	4.6	7.2
80+	15,121	4.4	0.8	0.1	0.2	1.4	12.8

Source: Household Survey and Population Census – 2006

29. There were far more males than females who reported to have no education, whereas there were more females than males that fell under primary, secondary and non-graduate and non-formal education categories. The gap between the males and females who had graduate level was only 3 percent in favour of females.

G. Religion

30. Section 13 (1) of the constitution expresses the freedom of conscience. It provides that: "Every person shall be entitled to, and except with his own consent, shall not be hindered in his enjoyment of, freedom of conscience, including freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance". In accordance with Section 13(2), every religious community shall be entitled to manage any of its educational institutions.

31. The Basotho are predominantly Christian, and about 99 per cent show allegiance to the Christian establishment. However, most of the Basotho people still have strong African traditional beliefs in their customs. Many of them are engaged in a mixture of Christianity with traditional beliefs. Out of an estimated percentage of 90 to 99 per cent, about 45 per cent are estimated to be Catholic. The Lesotho Evangelical church was the first Christian church to arrive in Lesotho in 1933. The Lesotho Evangelical Church (LEC), the Anglican Church, Methodist church, African Methodist Episcopalian, Seventh Day Adventist, independent Pentecostal, charismatic and born again Churches, such as The Assemblies of God, Jehovah's Witnesses, Back to God, Ebenezer and many others, share the remaining 55 per cent of the Christian population in Lesotho, with the Lesotho Evangelical Church having a much higher percent rate. Other kinds of religion include the Baha'i faith, and the Muslim faith.

H. Socio-Economic Indicators

32. Migrant Labour, Manufacturing, Construction, Subsistence Agriculture, and Tourism sectors are the mainstay of Lesotho's economy. The Tourism sector is also another important socio-economic sector.

Migrant Remittances

33. Most of the Basotho people work in the Republic of South Africa. The male work-force works specially in the mines. The remittances of the migrant mineworkers have over

the decades accounted for a significant part of Lesotho's overall national income. However, the average number of Basotho Mine Workers employed in South Africa has declined from a level of 100,500 in 1995 to a decline level of 50,000 in 2008. Notwithstanding this decline, remittances from mine workers have remained a significant contribution to the overall disposable income in the economy. Lesotho which had the highest percentage of migrant labourers working in The Republic of South Africa has felt the impact of the retrenchment crisis more. The global economic crisis has also had an adverse impact on the performance of the global economy and trade markets, and Lesotho is not an exception to this turmoil.

The Manufacturing Industry

34. The manufacturing industry and sector in Lesotho is made up of the textile industry. Most of these firms are in the outskirts of Maseru, in places like Ha Thetsane, and the industrial area of Maseru. Other manufacturing industries are in the districts of Leribe, in Maputsoe. These firms are engaged with the manufacturing of clothing, footwear, and wool. When the Multi-fibre Agreement came into force, the Africa Growth and Opportunities Act (AGOA) was enacted, granting duty and quota to Lesotho textiles imported into the United States of America. In December, 2004 when the Multi-fibre Agreement expired, it affected the employment rate in the textile sector.

35. The second largest employer in Lesotho is the manufacturing and industry sector. The years 2000 to 2004, was a period in which Lesotho witnessed unprecedented growth in the textiles and garment industry. More than 50,000 jobs were created as a result of the African Growth Opportunities Act (AGOA), of 18th May, 2000. This Act granted duty and quota free access to Lesotho textiles imported into the United States of America. The performance of AGOA in Lesotho from 2000 to the 2004 years has been remarkably high and satisfactory, with an estimated performance turnover of USD1.06 billion. The major trade exports products were clothing, furniture, footwear, and wool. AGOA was a unilateral access dispensation voluntarily given to Lesotho by the United State of America to enter the American market. AGOA since 2000 has been a special arrangement made to the Sub-Sahara countries market of 6,408 product lines. Sub-Sahara Africa has had to meet conditions of democracy, good governance, human rights and the rule of law in order to qualify for entry into this market. Under AGOA-I on textiles, Lesotho's impact on her labour market was a resounding success. Employment grew from 20,000 to about 50,000 and went to a decline of 52,000.

36. The majority of the female population benefited greatly from AGOA-I in terms of making provision of the basic social amenities of their families such as food, school fees and other essential family requirements. During AGOA-II and AGOA-III, more stringent conditions for market access were put in place. During AGOA-II, the United States of America market put a conditionality requiring exporter markets to gain access into their market when the cotton plant is at the place of manufacture. During this time, the labour market in Lesotho was slightly affected, because some of the investors who could not accept the new conditions of trade, closed shop and left the country. Despite however, the Government of Lesotho has undertaken all efforts to negotiate favourable conditions of trade that continue to place Lesotho high on the American trade market. Promising signs of employment re-generations have however also been shown to increase.

37. Lesotho's major trade partners have been The Republic of South Africa, United States of America, Botswana, Swaziland, Namibia and the European Union. In 2005 a recession affected the country following a drought which decimated the sub-region, as well as a downturn in textile production, emanating from exchange rate loses that were attributed to an appreciating South African Rand. This condition resulted in a number of foreign-owned textile companies being closed. As a result, about 10,000 jobs were lost to

the textile industry. The Multi-Fibre Agreement (MFA) has also been another external arrangement that has impacted on the economic growth of Lesotho's economy. The Multi – Fibre Agreement (MFA), focused on the restriction of textiles product export as a sensitive sector. The manufacturing sub-sector which has been dominated by the textiles and clothing industry for export to the United States of America, has contributed to accelerated economic growth rate in Lesotho. This sector has had an amazingly great impact. The expiry of the Multi-Fibre Agreement (MFA) has implied that Lesotho will now have to compete for the United States market on an equal basis with the world's most low-cost producers that would include countries like China, India and Bangladesh.[9]

Lesotho Trade with the rest of the World

	2004	*2005*	*2006*	*2007*	*2008*
Import	9,621,960,994	8,765,011,011	8,645,557,878	9,041,112,042	8,825,114,877
Export	6,358,847,766	3,878,442,122	5,122,001,419	4,297,210,001	6,014,473,500

Top ten Importing Partners

	2004		*2008*	
	Country	*Values*	*Country*	*Values*
1	RSA	7,927,528,900	RSA	8,406,545,370
2	Taiwan	567,200,632	Japan	160,729,000
3	Hong-Kong	516,091,496	German	12,161,200
4	China	358,979,145	USA	64,419,000
5	USA	77,959,635	United Kingdom	21,868,102
6	Singapore	59,393,394	China	10,225,200
7	India	56,263,656	Namibia	4,473,150
8	South Korea	36,960,102	India	3,892,450
9	United Kingdom	21,584,034	Italy	3,716,213
10	Swaziland	53,145	Botswana	2,715,431

Top ten Exporting Partners

	2004		*2008*	
	Country	*Values*	*Country*	*Values*
1	USA	4,248,768,270	USA	3,187,801,300
2	RSA	1,119,457,190	RSA	2,395,545,700
3	Belgium	605,393,949	Belgium	315,07,600
4	Switzerland	173,500,143	Canada	29,162,400
5	Canada	35,177,760	Madagascar	25,279,200
6	Botswana	22,448,263	Mauritius	1,127,246
7	United Kingdom	4,132,682	Swaziland	1,848,954
8	Netherlands	1,029,540	Netherlands	493,516
9	Madagascar	4,988,920	United Kingdom	236,880
10	Japan	937,000	United Arab Emirates	77,273

[9] Interview with Director of Trade-MOT&ICM.

Construction Sector

38. Another important sector at the moment is in the area of construction. The Lesotho Highlands Water Project (LHWP) has made a remarkable contribution to the construction activities of water dams at Mohale Dam, Katse Dam and Matsoku. Lesotho is selling excess water to South Africa and has generated power for local consumption, at Muela Hydro-electric power station. This contributed to a sudden boom in the construction sector. The multi-billion-dollar project brought with it the construction of infrastructure and socio-economic development, as most people worked in the project for more than ten years. The performance of the project is that for the years 2005 to 2007, Mohale Dam started a overspill for the first time since impoundment in November, 2002. Lesotho Highlands Water Project (LHWP) is an on-going water supply project with a hydroelectric component.

39. The construction of Phase 1B of the Lesotho Highlands Water Project on Mohale Dam started in 2002. Since its inception, the Lesotho Highlands Water Project – (LHWP), has made many milestones and benefits, that include a significant contribution to sustain and enhance biodiversity in Lesotho through community programmes. There has also been awareness raising of environmental management and conservation issues. LHWP has also been responsible for the establishment of two nature reserves, namely: Bokong and Ts'ehlanyane National Park. The Liphofung Cave is a cultural heritage site developed by LHDA near 'Muela dam. LHDA developed a visitor's centre incorporating a display of a cultural heritage centre. Basotho and Bushman art has been made together with a craft shop and an overnight accommodation facility.

40. The resettlement project of the LHWP built modern standards of houses according to the size of their affected dwellings. Affected families received annual compensation for arable land lost, based on generous production estimate either in cash or in kind – that is in maize or beans, depending on the discretion of the recipient. With a hydro-electric plant that currently supplies electricity to the central Gauteng Province where the majority of the industrial and mining activity occurs, as well as the generation of the hydro-electronic power for Lesotho.

41. To ensure that the communities affected by the LHWP benefit and gain employment from the project, the Lesotho Highlands Development Authority (LHDA) began to distribute compensation funds in 2002. The first three of these various communities to receive funding were the Setlakalleng community receiving M 133,800; the Boinyatso community receiving M 253,289, and the Ha Molapo community receiving M 129,177. With this money the Ha Molapo community has funded a multi-purpose co-operative, while the Boinyatso and Setlakalleng communities have bought grinding machines. One method of creating employment in Lesotho is taking advantage of investment agreements and preferential market access offered to the country. Examples of such opportunity for Lesotho are: The Lesotho Highlands Water Project Treaty.

42. At its initial stage, LHWP created thousands of jobs in construction and other sectors of the Lesotho economy.

43. With the LHWP Lesotho gets fixed and variable royalties from the transfer of water to the RSA. On average, the royalties come to M 15 million per month. In total Lesotho has (up until July 2002) received about M 937 million in revenues from these royalties.

44. A statement of Intent between the Government of the Kingdom of Lesotho and The Republic of South Africa was signed in August, 2010, during the state visit of the President of South Africa, Mr. Jacob Zuma, on the development of Phase two-2 of the Lesotho Highlands Water Project – (LHWP).

Water Sector

45. The Water Resources Act of 1978 specifies that domestic water use takes priority over other uses. The Water Act (2008) was enacted to provide for the management, protection, conservation development and sustainable utilization of water resources.

46. Lesotho developed the National Environmental Policy in 1998; which provides the framework for water policy development. The policy acknowledges the periodic prolonged drought and scarcity of water for agriculture and pollution of land and water courses. It advocates providing access to portable water for all people. The policy also introduces the notion of the polluter-pays principle. The objective of the Water Resource management policy (1999) is to develop integrated and coordinated, effective and efficient approaches to conservation and use of limited water resources, and to promote its conservation and availability in sufficient quantity on long term sustainable basis.

47. Access to improved water sources has been identified as one of the indicators for monitoring the vision 2020 component "healthy and well developed resource base". The increase in the provision of clean, safe drinking water and proper sanitation has been identified as a strategic action whose main role players are the Ministry of Natural Resources through DRWS; the Water and Sewerage Authority (WASA), and The Environmental Health Division of the Ministry of Health and Social Welfare.

48. WASA is responsible for providing potable water supplies and sewerage treatment and liquid waste disposal facilities to the urban areas in both the lowlands and the highlands. WASA does not provide water for agricultural and irrigation purposes. WASA manages the water distribution system, unaccounted-for water, and laboratory sampling and analysis of water.

49. In 2007, the Ministry of Natural Resources developed the Lesotho Water and Sanitation Policy; within which access to clean water is enshrined. The national goal was to provide 30 litres of clean water per person per day, and to ensure that the travelling distance required to collect clean water did not exceed 150 metres.

50. Department of Rural Water Supply (DRWS) has developed a strategy for achieving defined goals in water coverage and maintenance. The two key elements of the strategy are focus on increasing the speed at which communities are supplied with safe, sufficient water supply, and establishing a workable mechanism to ensure long term sustainability of water systems once they are completed.

51. The DRWS is responsible for the design, development and upkeep of rural water infrastructure. The rural water provision strategy is based on a demand responsive approach to planning in cooperation with the communities; thus the decision regarding the type of water system selected, the service level delivered, and long-term management of the water systems actively involves the community at all stages.

52. The table below indicates that the percentage of households that walk for less than 15 minutes to collect water ranges from 45.6% to 63.5%. The highest percentage is in Maseru while the lowest is in the mountain district of Thaba-Tseka. Those who spend 15 to 29 minutes account for 20.5 percent. Furthermore; less than 3 percent of the household members travel for two hours or more to get water for their households.

Time in minutes taken to get water and come back walking
Percentage distribution of households by district and time in minutes taken to get water and come back walking, 2006 Census

	Time taken to get water							
District	*0-14*	*15-29*	*30-44*	*45-59*	*50-59*	*60-119*	*120+*	*Number*
Botha-Bothe	52.7	22.0	10.8	4.0	4.5	3.8	2.2	100 (23,724)
Leribe	47.5	22.0	11.7	4.7	6.2	4.6	3.2	100 (66,697)
Berea	54.4	19.2	10.2	3.7	5.6	3.9	3.0	100 (56,567)
Maseru	63.5	17.4	8.1	2.8	3.5	2.9	1.7	100 (109,978)
Mafeteng	49.7	21.8	11.8	4.6	5.8	4.0	2.2	100 (42,948)
Mohale's Hoek	53.2	20.6	10.3	3.4	5.7	4.7	2.2	100 (37,631)
Quthing	50.6	23.2	10.0	3.1	5.4	4.6	3.1	100 (23,528)
Qacha's Nek	61.9	22.0	8.2	2.5	2.5	2.1	0.8	100 (14,122)
Mokhotlong	54.5	22.0	10.7	4.0	4.3	3.0	1.5	100 (20,431)
Thaba-Tseka	45.6	24.1	12.8	5.5	6.9	3.7	1.4	100 (26,745)

53. A Willingness and Ability to Pay study conducted in one of the Areas in the Southern districts indicated that 9% of the households were employed, while 72% were unemployed, and the rest were engaged in informal businesses and subsistence farming with no regular income.

54. The DRWS remains responsible for major repairs or expansions of rural water systems with the government paying no more than 90% of costs with the remainder paid by the community.

55. The Water and Sewerage Authority WASA is legally responsible for owning, operating, and maintaining urban water and sanitation systems in urban areas. There are three service provision categories in the urbar areas namely: Water Kiosks, Shared water points, and pre-paid system. There are two tariff structures, one for domestic consumers and the other for non-domestic consumers. The non-domestic tariffs are higher than domestic tariffs.

56. WASA monitors the water quality, and ensures that water is treated regularly in the urban areas. A water treatment plant is currently under construction in the main city of Maseru. WASA has established a laboratory for testing water quality. The Rural Water Supply Department does not monitor water quality. The Ministry of Health and Social Welfare, through the Environmental health Division has developed the strategies for environmental education. The goal is to enable the health sector to improve the knowledge and awareness of communities about the relationship between the environment and health. The health education programme includes training households on hygienic use of water and sanitation facilities; personal hygiene especially regarding hand washing after toilet use, and before food preparations; provision of safe water supply; proper sanitation systems and excluding disease carriers from food handling.

57. The After Care Strategy developed by DRWS is intended to address and improve sustainability of water systems and increase community responsibility for operation and maintenance activities. Key elements of the After Care Strategy include the allocation of responsibility for monitoring and supervising of water systems to Community Councils (CCs) with Village Water and Health Committees (VWHC) legally established under CCs being responsible for the operation and maintenance Plan, as well as hygiene education.

58. The Water and sewerage Authority (WASA) has embarked on numerous programmes in reducing water wastage and monitors unaccounted for water. The programmes include the rehabilitation of existing water lines and reservoirs in urban towns.

Agricultural Sector

59. Lesotho is dominantly a rural economy, with 76 percent of the people living in the rural areas. Its primary sector is agriculture. The main agricultural products are corn, wheat, sorghum, barley, peas, beans, asparagus, wool, mohair, and livestock. This sector has contributed to about 20% of the Gross Domestic Product (GDP). The 20 percent turnover was over the years 2001 to 2006, while in 2008 it was estimated at 46.7 percent. The agricultural sector has been faced with severe challenges, ranging from the fact that two-thirds of the land is mountainous and not suitable for farming.

60. The nine - 9% arable land has chronic problems of soil erosion and soil degradation. This led to a very small percentage of the land to be under cultivation. In 2005, there was a severe drought that affected the sub-region, and Lesotho as a country. The drought condition led to an economic recession that also affected the performance of agriculture and other sectors of the economy. The Government has undertaken steps to revive the agricultural sector, and diversify the economy for better performance and development. The block farming strategy with some subsidies was introduced as a mechanism of commercialising and reviving the agricultural sector. Since this strategy was put in place, the agricultural sector has performed much better under block farming. The prudent utilisation of the country's abundant natural resources such as water for irrigation, domestic use, and export to the Republic of South Africa stand-as-viable-options-for-economic-diversification.[10]

61. Currently, Lesotho cannot produce enough food to meet the domestic demand. Almost 70 percent of the annual cereal requirements is imported mainly from South Africa. The majority of the people, especially in the rural areas rely heavily on subsistence farming. A large proportion of the rural population is caught up in poverty, with limited crop yields and little or no resources to buy imported foodstuffs. As a result, about twenty –five percent (25%) of the population was classified as insecure in 2009.[11]

Tourism Sector

62. Lesotho's tourist sector has a very high potential of contributing to the GDP of the country. Lesotho has a beautiful mountain terrain and scenery which appeals to tourists very much. The trans-frontier Underberg triangle is being developed by Lesotho and South Africa, in order to enhance the viewing of the mountain areas. The snowfall in the mountain districts of Lesotho during the winter season act as a great attraction. The Oxbow Skiing and holiday resort acts as a great tourist attraction where tourists go for skiing. Other places of tourist interest and attraction include Ts'ehlanyana animal and game resort. Sehlaba-Thebe is yet another game resort where some extinguished animals can be viewed. Kome caves also contribute to the tourist beauty of Lesotho. Thaba-Bosiu mountain and cultural village also remain as other places of tourist attraction. Malea-lea lodge, and many other holiday resorts that are scattered in the outskirts of Maseru, provide the tourists with a freshness of the pure air of the Mountain Kingdom in the sky. Both Katse dam in the Leribe district and Mohale dam in the Thaba-Tseka district add to the beauty of Lesotho, while at the same time generating income in the form of royalties from the water which gets sold to the Gauteng province in South Africa for household consumption. The hospitality business

[10] MDG'S Status Report 2008 and Lesotho Development Goals Report 2010.
[11] Lesotho: Millennium Development Goals Report 2010.

through many dotted bed and breakfast places, and lodges is on the increase. The tourism sector is showing indicators of having a great potential towards revenue collection for Lesotho.

Poverty Indicators

63. Poverty in Lesotho is an over-whelming rural challenge with variation to gender, household size and access to basic services including water and housing. Unemployment and uneven distribution of income is the major cause of poverty. Furthermore; a significant amount of labour is devoted to low productive rain-fed crop farming and livestock activities, which do not provide an adequate livelihood without the additional support from non-farm employment and migrant remittances. However; the agricultural sector remains the main source of livelihood and income for the rural poor. The country is confronted with severe natural resources degradation and weak environmental conditions. The performance the rural economy continues to be highly affected by poor agricultural productivity, lack of infrastructure, and prolonged drought. The transformation of Lesotho's economy from being predominantly agriculture to manufacturing, has improved livelihood options in the urban sector. However, this has significantly undermined the capacity of the rural and agricultural sector as a source of livelihood, employment and income. The shifting balance towards manufacturing has also worsened poverty in rural communities, particularly those that depend on food production. It will therefore be necessary to take measures to restore the sources of livelihoods for the rural population. Lesotho is a member of the United Nations and has ratified a number of conventions and treaties including the International Covenant on Economic, Social, and Cultural Rights. Lesotho is however faced with the challenges of implementing the ratified conventions and treaties.

64. The Lesotho Human Development Report has published the human development index which provides a composite measure of three dimensions of human development: living a long and healthy life (measured by life expectancy), being educated (measured by adult literacy and gross enrolment in education) and having a decent standard of living (measured by purchasing power parity, PPP, income). However the index does not include important indicators such as gender or income inequality, respect for human rights and political freedoms. It provides for viewing human progress and the complex relationship between income and well-being. Between 2000 and 2007 Lesotho's HDI fell by -0.52% annually from 0.533 to 0.514 in 2009. In 2007, the HDI for Lesotho was 0.514, which gave the country a rank of 156th out of 182 countries.

I. Health

65. Lesotho's healthcare comprises of curative, preventative and rehabilitative services. There are twenty–two (22) hospitals, eighteen of which are general hospitals. Some of these are owned by Government while others are owned by the Christian Health Association. Among the Government hospitals, two are specialist hospitals for mental health and leprosy. There is also a military hospital and a privately owned hospital at Thetsane. There are over one hundred and seventy (170) health centres, most of which are owned by the Christian Health Association. There is also a network of about seven thousand (7,000) volunteer health workers including traditional health attendants. The health centres cater for basic curative services, child immunisation, and family planning. The health sector has been experiencing very worrisome indicators in the period between 1996 to 2001, as This statement is according to The 2009 Reproductive Health Policy.[12]The health sector's

[12] Source: Report of African Peer Review Mechanism (APRM).

programmes aim to ensure the survival and development of children through basic health services, specifically immunisation, nutrition and the treatment of common diseases. Due to low capacity within the health sector, Lesotho is recorded and noted to be off-track on two indicators affecting children, which are the child mortality of the under and infant mortality. Slow progress is however being recorded on immunisation coverage.[13]

Vital indicators in 1986, 1996, 2006

		1986	*1996*	*2006*	*2009*
(a)	Crude birth rate (per 100 population)	37	30.0		
(b)	Crude death rate (per 100 population)	11.6	12.8		
(c)	Rate of natural increase (per 100 population)				
(d)	Doubling time (in years)				
(e)	Estimated total number of live births				
(f)	Life expectancy years	55	59		
	Female	56.7	60.2		
	Male	49.3	58.6		
(g)	Infant mortality rate (per 1,000)	85	74	96	
(h)	Child mortality rate (per 1,000)				
(i)	Maternal mortality rate (per 100,000 live births)				

HIV and AIDS

66. In Lesotho there are as many as 270,000 people living with HIV and AIDS in the country.[14]

67. There are also estimates of about 108,700 orphans and vulnerable children in the country as a result of HIV and AIDS. These children more often than not have to take care of themselves either because they have no next of kin to take care of them, or they do not want to take any responsibility for them. The rate of HIV and AIDS prevalence in Maseru is 35.8 percent, which is well above the national prevalence rate of 23.2 percent. Out of this figure, 26.4 percent are women, while 19.3 percent are men. In Lesotho, several efforts have been made by the Government, aimed at providing a conducive environment for the fight against HIV and AIDS. The Labour Code (Amendment) Act No. 5 of 2006 has been passed to stop discrimination at the workplace of those with the HIV status. The Labour Code (Codes of Good Practice) Notice of 2003 states that no person should be dismissed merely on the basis of their HIV and AIDS status.

68. The Government of Lesotho has established the Lesotho Aids Programme Coordinating Authority (LAPCA), which serves as the secretariat for the National Aids Committee (NAC) consisting of Ministers of selected Government Ministries. There is a policy framework in place to prevent, contain, and manage the country's HIV and AIDs crisis. This includes the National Aids Strategic Plan (NASP) and the HIV and AIDS policy framework, which is a multi-sectoral organisational structure.

69. The National AIDS Strategic Plan 2002/2003-2004/2005, has been formulated with the guidelines of the SADC HIV and AIDS Strategic Framework and Programme of Action 2000-2004, which provides the framework for the national plans, guides and facilitates

[13] 2010 Millennium Development Goals.
[14] APRM Report – 2009.

cooperation regionally. The vision of this document is an AIDS free-society with high levels of awareness, behavioural change, safe blood supply, safe sex practices and equitable access to quality care and support for both the infected and the affected. The strategic aims of this policy include the following: The reduction of sero-prevalence by 5 percent, the increase of the rate of delayed sexual activity in those aged 10 to 15 years by 30 percent. The increase on the use of condoms by 50 percent per annum. Offering counselling to all people living with HIV and AIDS. Reduce the spread of HIV and AIDS among those aged 15 to 49 year from the present 10 percent per annum to 5 percent.

70. HIV and AIDS pandemic is one of the contributing factors of the increase in orphanhood. The number of orphans increased from 9, 9082 in 2004 to 12, 2769 in 2006. An increase of 12, 8257 pupils out of 42, 4855 (30.1 percent) was further observed. About half (56.6 percent) of these orphans had lost a father compared to 18.9 percent that had lost a mother. Those that had lost both parents constituted about one fifth (22.5 percent) of the orphans.

71. This policy is supported by a Strategic Action Plan with interventions on adequate resource mobilisation, social mobilisation and communication programmes, promotion of nutrition and food security to the infected and affected, including many other key pivotal measures on prevention, school curriculum, and the involvement of the youth.

72. The Millennium Development Goals (MDG'S) report of 2010, states that the health sector has programmes aimed at ensuring the survival and development of children through basic health services.

73. The Sexual Offences Act of 2003 contains several provisions that deal with HIV and AIDS, including making it mandatory for an accused person to undergo an HIV test within one week of being charged. Four additional policies have also been formulated, and are being implemented. These are: The National Orphans, and Vulnerable Children (OVC) policy, which protects children who are orphans because of HIV and AIDS, and are as a result vulnerable. The European Union (EU) has in this regard contributed to the support of the cash transfer system for the benefit of orphans. The scheme is administered by the Department of Social Welfare (DWS) under the Ministry of Health and Social Welfare.

74. The Education Sector Policy on HIV and AIDS was developed in 2007, and the National HIV and AIDS Testing and Counselling Policy in April 2006. The Know Your Status Campaign of 2002 that was launched by His Majesty King Letsie III, and The Right Honourable the Prime Minister with the technical assistance of the United Nations Development Programme (UNDP) has promoted voluntary testing and counselling of HIV and AIDS.

J. Inflation

75. Inflation was found to be around ten percent (10%) at the end of 2008. This was apparently as a consequence of high food and fuel prices. At the end of 2009, the inflation rate was at four point two percent (4.2%), due to a slow- down in food and fuel inflation. Inflation in global food prices moderated after the economic crisis, but in Lesotho it remained high. (This is in part due to the fact that Lesotho's economy is intertwined with that of South Africa, which is without doubt-Africa's-strongest-economy.)

Lesotho Inflation Rate

Year	*Percentage*	*Rank*	*Percentage*	*Date of information*
2005	-	151	-13.11%	2004 estimate
2006	4.70%	133	-11.32%	2005 estimate
2007	5.00%	134	6.38%	2006 estimate
2008	8.00%	168	60.00%	2007 estimate
2009	10.70%	156	33.75%	2008 estimate
2010	8.50%	181	-20.56%	2009 estimate

Source: CIA World Fact-book – Accurate as at 19 February, 2010.

Definition: This entry furnishes the annual percent change in consumer prices compared with the previous years' consumer prices.

76. The inflation rate has remained relatively low in Lesotho, and the Consumer Price Index (CPI) has been increasingly on average by 7 percent annually since 2000. In 2002, 2003, and 2007 onwards, the inflation has been above average, following the global increase in prices. The inflation in global food prices has been moderated after 2008, but the inflation on food items in Lesotho has continued to be high. This can have an enormous impact on achievement on the Millennium Development Goals (MDG'S) in a country like Lesotho, where malnutrition and poverty indicators are on the rise.

Lesotho's external debt service ratio in percentage is as follows:

2000	*2006*	*2007*
11.3%	3.9%	7.0%

Source: (General Assembly Economic and Social Council) A/80 – E/ 2009/79.

Total external debt is debt owned to non-resident repayable in foreign currency, goods or services.

2005	*2006*	*2007*	*2008*	*2009*
666,953,000	649,893,000	677,577,000	682,314,000	682,314,000

Source: World Bank, World Development Indicators.

Year	*Debt external*	*Rank*	*Percentage*	*Date of information*
2005	Usd735,000,000	150	0.00%	2002
2006	Usd735,000,000	156	0.00%	2002
2007	Usd735,000,000	156	0.00%	2002
2008	Usd689,000,000	156	-6.26%	31 December, 2007 est.,
2009	Usd619,000,000	162	-10.16%	31 December, 2008 est.,
2010	Usd581,000,000	156	-6.14%	31 December, 2009 est.,

Source: CIA World Fact Book – Information as of 19 February, 2010.

Definition: This entry gives the total public and private debt owed to non-residents repayable in foreign currency, goods and services. These figures are calculated on exchange rate basis rate, which is not in purchasing power party (PPP) terms.

II. General constitutional and political structures of government in operation

A. Background

77. The organs and structures of the Government of the Kingdom of Lesotho filed as General HRI/CORE/1/Add.98 of 5 October, 1998 was a comprehensive description of the organs of Government as provided in the constitution. These were namely the Legislature, the Executive and the Judiciary. This description was submitted to the Human Rights Committee. This was a core document that was submitted to the Human Rights Committee with Lesotho's initial report on the International Covenant on Civil and Political Rights. In the current document that is an up-date on all information and data that has changed since the submission of the first core document, the composition, and the powers of the structures of Government that have already been described in the last document are not repeated in the present document. The current document shall only be descriptive of the current developments that have taken place in the actual operation of the organs of the Legislature, the executive and the judiciary since the report of the 5th of October, 1998 to the United Nations treaty bodies. This analysis shall be as follows:

B. The legislature

National Assembly

78. Section 54 of the Constitution establishes Parliament, which consists of the King, the Senate and the National Assembly. The Senate consists of 22 principal chiefs and 11 other senators nominated by the King acting in accordance with the advice of the Council of State (sect. 55 of the Constitution). The National Assembly consists of 80 members elected in accordance with the provision of the Constitution (sect. 56).

79. The Constitution of Lesotho in Section 1 provides that Lesotho shall be a sovereign democratic kingdom. In complying with its constitutional mandate and as a demonstration of its commitment to constitutional and democratic rule, Lesotho has held four elections since the restoration of democratic governance in 1993. Three national general elections have been held under the auspices of the Independent Electoral Commission (IEC) which has been established by the Second Amendment to the Constitution Act No. 7 of 1997.The Constitution Mandate political parties to prepare and submit lists of names of persons to be appointed as commissioners of the IEC to Council of State to select commissioners from those names according to the Electoral Act in section 66 (4). The purpose is to make an inclusive process which is cowheel by all stakeholders and legitimise the appointment of Independent Electoral Commissioners. The National Assembly Election Act No. 10 of 1992 provides for a code of conduct binding all political parties and candidates. The code is enforced by an independent tribunal. The electoral law allows free access to public media during the election period to all consisting parties and the law prohibit commercial advertisement for campaigns in the public media. A timely disposal of election released dispute is provided for and the constitution has mandated the High Court which is a Constitutional Court to deal with election petitions.

80. The Parliament of Lesotho which consists of the King, The Senate and a National Assembly is a central player in the strengthening and institutionalising of democracy. The Fourth Amendment to the Constitution Act No. 4 of 2001 was passed into law in order to ensure a true multiparty parliament which is inclusive and representative of all opinions represented in the nation. There are about eleven political parties currently represented in the National Assembly. The Fourth Amendment to the Constitution Act, 2001 Act No. 4 of

2001 was adopted as an Act to amend the Constitution to establish a mixed member proportional electoral system for the election of the members of the National Assembly. The Act further provided for greater independence of the Independent Electoral Commission; and also provided for special provisions for the conduct of the general elections. The National Assembly Election (No.1) (Amendment) Act, 2001 was further enacted to give effect to the decisions of the Interim Political Authority (IPA), by increasing the size of the National Assembly from eighty to one hundred and twenty members, and provided that eighty of the members be elected on the basis of proportional representation.

81. In 2004 Parliament embarked on a radical and all-embracing parliamentary reforms programme. The reforms programme included revision of the standing orders of Parliament, establishment of portfolio committees and devising ways and means of allowing public participation in parliamentary processes. The new revised standing orders have set up oversight portfolio committees that are aligned to the mandate of the different Government line ministries. A provision has also been made that the holding of public hearings on bills are tabled before the Parliament. The reforms programme included revision of the standing orders, establishment of portfolio committees and devising ways to allow public participation in parliamentary processes. The new revised standing orders have set up oversight portfolio committees, that are aligned to the different mandates of the different line ministries. The orders also allow the holding of public hearings on bills tabled before the Houses.

82. The implementation of the new electoral system on the mixed member proportional representation model, brought about a general acceptance of the election result for the first time since independence. Lesotho thereafter experienced a peaceful post election period after the 2002 election until the next election which was in 2007. The mixed member political model was effective in reducing tensions between political parties and their supporters. "It improved political inclusiveness, representation of small parties in parliament, and enhanced the legitimacy of the ruling party." In preparation for the 2007 elections political parties formed alliances between them. Lesotho Congress for Democracy (LCD) which is the ruling party formed an alliance with the National Independent Party (NIP), while the All Basotho Convention Party (ABC) formed an alliance with the Lesotho Workers Party (LWP). Lesotho Congress for Democracy (LCD) won the 2007 election. The result of the 2007 according to the record of the Independent Electoral Commission (IEC) was as follows: It was the result of the 2007 election that led some of the smaller political parties to contest the result on the basis that the mixed member electoral model had been compromised and abused by the larger political parties.

83. As a result, Maremaltou Freedom Party (MFP) as one of the aggrieved smaller political parties lodged an election petition with the High Court. In deciding the matter in *Maremaltou Freedom Party (MFP) v. Independent Electoral Commission* CIV/APN/117/07, the High Court ruled that Maremaltou Freedom Party had no loci standi in judicio (no legal standing in law) to file such a petition as the constitution allows only a voter or a candidate who is aggrieved to file petition. The dispute led to many other acts of decadency and protests by members of the opposition parties. The impasse was eventually mediated through the person of the former President of Botswana Sir. Ketumile Masire. The Christian Council of Lesotho (CCL) also played a role in the mediation of the dispute. During the SADC Summit of Heads of State and Government held in Windhoek, Namibia this year.

84. The summit decided that any consequential amendments that needed to be made to the electoral model, the constitution and the electoral law should be made in order to remove any uncertainties for the next general election of 2012. Currently, political parties, and the Independent Electoral Commission are engaging in consultations regarding these

amendment processes. "With the major unrest following the 1998 election still in mind, all parties have made efforts to avoid an escalation of the controversy. As of late March, the parties had agreed that the electoral laws and related elements of the constitution need to be changed in order to prevent future recurrences, and talks were going on ongoing on other issues".[15]

The Ombudsman

85. The office of the Ombudsman is established under Section 134 Constitution. The functions of this office inter-alia include the investigation of acts and cases of maladministration in which persons have suffered injustice as a consequence of that action, or corruption and human rights violations. The Ombudsman Act grants the ombudsman the mandate also investigate human rights violations, abuses and also inspect the conditions that prevail in places of custody, detention and rehabilitation offenders. This office which has been operational since democratisation, is gaining acceptability from the public for its interventions. Over the last five years or so, the office of the Ombudsman has dealt with a wide range of matters from unjust enrichment, injustice, maladministration, corruption, and the violation of fundamental human rights and freedoms. One of the most recent and significant interventions that was done by the Ombudsman involved a complaint about compensation rights involving the Lesotho Highlands Water Project by people who were affected by the project.

86. When delivering major findings, the office of the ombudsman normally invites the Press so that the findings can receive maximum publicity. Cases of sexual harassment at the workplace have also been dealt with by the Ombudsman using the name and shame them approach through the media. This is however a moot point for consideration and debate whether such matters could not have been dealt with in camera. The most recent milestone that has been achieved by this office has been the recording, documentation and publication of the work of the office of the Ombudsman through the Ombudsman's book "Promoting Administrative Justice in Lesotho – The Role of the Ombudsman." – Quest for Good Governance, which is written by Sekara Sam Mafisa. This publication has contributed to the development of jurisprudence in this field. In the period between 1999 to 2010, the performance of the ombudsman has been as shown below:

Auditor-General

87. The office of the Auditor-General which is established by Section 117 of the Constitution continues to be an important oversight institution on the financial performance of the three organs of Government. Annual reports prepared by the Auditor-General are submitted to Parliament and the Public Accounts Committee of the National Assembly for Scrutiny. The report of the Auditor-General gets responded to by all Government ministries and departments.

88. This happens in the presence of a representative from the Auditor-General's office, and the Accountant-General's office. Parliament as the body that allocates the various line ministries with expenditure and revenue budgets through the Appropriations Act, receives a comprehensive report from all the line ministries on how they have spent the said budgets from the Auditor-General's report.

89. Any areas of financial irregularities on expenditure procedure, misappropriation and misallocation of funds become the subject of debates between the ministries and the Parliamentary Public Accounts Committee. The focus is normally on areas requiring

[15] Lesotho – Millennium Development Goals Report 2010.

clarity, explanation, accountability and transparency. The recommendations of the committee to the different Government line Ministries get consolidated, and get presented to Parliament as one comprehensive report. Line Ministries are subsequently expected to improve the financial management system based on the recommendations of the report. Emanating from the Auditor-General's reports, Parliament has had to recommend that Chief Accounting Officers should Order of 1988, and other related legislations. Disciplinary action and criminal prosecution have also been recommended where clear acts of malpractice exist.

The Internal Audit Function

90. The Internal Audit system has been reformed in an effort to make it more efficient and informative to the audit cycle. Currently, twenty –two internal auditors have been deployed across government ministries to assist in sound financial management and systems operation.

91. The internal audit function upholds financial accountability and transparency by ensuring that financial procedures and procurement procedures are well adhered to. Where it is necessary, corrective measures are recommended for an improvement of the system. The Integrated Financial Management System (IFMIS) including the decentralized procurement system have been introduced to improve the financial system.

Public Service Commission

92. The Constitutional mandate of the Public Service Commission is to appoint, promote and terminate appointment in the Public Service. The Commission's mandate to discipline public officers was delegated to Chief Accounting Officers through The Public Service Act No. 1 of 2005, and the codes of good practice and procedures applicable are outlined in this act. According to Section 136 of the Constitution members of the Public Service Commission are appointed by the King on the advice of the Judicial Service Commission which is headed by the Chief Justice. The appointment to Public Service is based on merit, competence and academic qualifications. The independence of the commission is meant to ensure professionalism of the Public Service.

Institutionalising Civil Control over the Security Forces

93. The First Amendment to the Constitution Act No. 1 of 1996 abolished the Defence Commission which was composed by the army officers and the police. The Commander of the army and commissioner of Police are appointed by the King on the advice of the Prime Minister. The operation of the army and police are determined by the civil authorities and they report to Parliament through the portfolio committees responsible for defence and public safety respectively thus making the two bodies more transparent and accountable.

C. The executive: Main Initiatives and Governance Programmes

94. The executive authority in Lesotho is vested in the King and is subject to the provisions of the Constitution, and is exercised by the King through officers or authorities of the Government of Lesotho (sect. 86). The executive authority of Lesotho is vested in the King and exercised by Him through the Prime Minister, officers or authorities of the Government of Lesotho, subject to the provisions of the constitution. This organ of Government is comprised of Cabinet Ministers who are established by section 88 of the constitution, Government Secretary (sect. 97), Principal Secretaries (96) and the public service. Since the establishment of these offices under the constitution in 1993, there have been major achievements on governance issues. Vision 2020 which encapsulates the country's development vision was adopted, stating that, "By 2020 Lesotho shall be a stable

democracy, a united and prosperous nation at peace with itself and its neighbours. It shall have a healthy and well-developed human resource base. Its economy will be strong; its environment well managed and its technology well established."

95. Under this vision a number of achievements have been made by the executive organ of Government on matters of good governance. Through Vision 2020 and the National Poverty Strategy (NPS), the decentralisation of national development services through the local authority structures was ushered in with the enactment of the Local Government Act of 1997 which established structures of decentralisation. The establishment of these structures was intended to promote participatory democracy and the involvement of rural communities in their affairs. This is provided for in section 106 of the constitution. Democratic local government elections were held for first time in 2005. Efforts were made by Government through the enactment of the electoral law (amendment) of 2005 on thirty-percent (30%) quota for women's nomination in the local government elections. Despite this law, women won 58% of the seats in the elections.

96. The challenge that was encountered with these elections was that the population turnover of the electorate was not as high as that of the national elections. The strategy to devolve more decision making power to the local authorities has been continuing since the elections. Functions have been decentralised, while some have been devolved to the local authority structures under schedule 1 and 2 of the Act. This has been coupled with the transfer of manpower from central government to the local government service.

97. Fiscal decentralisation still remains as a challenge, including training and capacity building of the local authorities to function professionally. One hundred and twenty-eight local authority councils have been set up to implement the community council development projects. In an effort to strengthen democracy and political governance, local authorities have been trained in restorative justice. The scaling up of rural road construction projects has also been a major function for the local authority structures. A roads network system that is unfolding, shall go a long way towards the development of the Lesotho tourism sector.

98. The Directorate on Corruption and Economic Offences was established as an oversight body on instilling accountability and transparency in the management and disposal of public assets. The Government enacted through Parliament the Prevention of Corruption and Economic Offences Act No. 5 of 1999 that set up the Directorate on Corruption and Economic Offences and empowered it to investigate suspected cases of corruption. Since its operation the Act has succeeded to strengthen internal procedures and controls to deter corruption and facilitate the detection and prosecution of corrupt practices. The DCEO has identified core functions of specific offices in Ministries targeting those prone to corruption, and recommending ways and means to curb potential corrupt practices. The Prevention of Corruption and Economic Offences (Amendment) Act No. 8 of 2006 introduced the declaration of assets and income by all those in the public service, and provided further operational autonomy to the Directorate.

D. Enforcement by the courts and other tribunals or administrative authorities

99. In this regard Lesotho follows the English common law approach observed in the majority of States of the British Commonwealth, whereby international conventions and covenants are not invoked directly in domestic courts, that is they are not self-executing. They have to be transformed into internal laws by Parliament or administrative regulations by administrative bodies in order to be enforced. Unless specifically implemented by domestic law-making procedures, an international norm is not, of itself, part of our

domestic law. 63. The Bangalore Principles provide that it is within the proper nature of judicial process for national courts to have regard to international human rights norms, whether or not incorporated in domestic law, for the purpose of resolving ambiguity or uncertainty in national constitutions and legislation. Hitherto we have not had any case in court on this point. The Labour Code No. of 9 1992 provides in section 4 (c) that, " in case of ambiguity, provisions of the code and of any other rules and regulations made thereunder shall be interpreted in such a way as more closely conforms with provisions of conventions adopted by the conference of International Labour Organisation, and of recommendations adopted by the Conference of the International Labour Organisation".[16] The resort to international labour conventions where the domestic law is not protective of the rights of workers has been provided for as indicated. This section specifically outlines that where national laws on labour standards are silent, international labour standards shall apply. ILO Conventions that are not ratified by Lesotho, may also be resorted to where they can resolve the ambiguity in the domestic legislation.

E. The judicial and other administrative competent authorities having jurisdiction affecting human rights

100. The 1993 Constitution provides for the judicature in chapter XI. Section 118 (1) confers judicial power on the courts. It states that the judicial power shall be vested in the courts of Lesotho, which shall consist of:

(a) A Court of Appeal;

(b) A High Court;

(c) Subordinate courts and courts-martial;

(d) Such tribunals exercising a judicial function as may be established by Parliament.

101. In subsection (2) the Constitution guarantees the independence of the judiciary when it provides that the courts shall, in the performance of their functions under the Constitution or any other law, be independent and free from interference and subject only to the Constitution and any other law. Subsection (3) provides that the Government shall accord such assistance as the courts may require to enable them to protect their independence, dignity and effectiveness, subject to the Constitution and any other law.

The Court of Appeal

102. The Court of Appeal was established by section 123 (1) of the Constitution, which states that there shall be for Lesotho a Court of Appeal which shall have jurisdiction and powers as may be conferred on it by the Constitution or any other law. The judges of this court include the President and such number of justices of appeal as may be prescribed by Parliament. The Chief Justice and puisne judges of the High Court are ex officio (sect. 123 (2) (a) and (b); see Court of Appeal Act No. 10, 1978). The President of the Court is appointed by the King on the advice of the prime minister. Section 123 (5) provides for the Court of Appeal to sit outside Lesotho. This is due, *inter alia*, to the fact that there are no indigenous judges of the Court of Appeal; most of them are from South Africa. The justices of the Court of Appeal are appointed by the King on the advice of the Judicial Service Commission, after consultation with the President of the Court (sect. 124 (1) and (2)).

[16] Labour Code No. 24 of 1992.

103. A justice of the Court of Appeal must have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in the Commonwealth or in any country outside the Commonwealth that may be prescribed by Parliament, or a court having jurisdiction in appeals from such a court. Such a person must have held such qualification for a period of not less than seven years (sect. 124 (3) (a) (i) and (ii)).

The High Court

104. The High Court was established by section 119 (1) of the Constitution. It reads: "There shall be a High Court which shall have unlimited original jurisdiction to hear and determine any civil or criminal proceedings and the power to review the decisions or proceedings of any subordinate or inferior court, court-martial, tribunal, board or officer exercising judicial, quasi-judicial or public administrative functions under any law and such jurisdiction and powers as may be conferred on it by this Constitution or by or under any other law" (see The High Court Act No. 5, 1978).

105. The judges of the High Court are the Chief Justice, who is appointed by the King acting in accordance with the advice of the Prime Minister (sect. 120 (1)), and the Puisne – Judges, who are appointed by the King acting in accordance with the advice of the Judicial Service Commission.

106. To be eligible for appointment as a judge of the High Court one must either have held the office as a judge of a court having unlimited jurisdiction in criminal and civil matters in a Commonwealth country or country prescribed by Parliament (sect. 120 (3) (1)) or must have been a legal practitioner in terms of the Legal Practitioners Act, 1983 for a period of not less than five years (sect. 120 (ii) and (b)).

107. Plans are also under way for the establishment of a courts-martial appeal court. In this regard reference is made to section 3, First Amendment to the Constitution Act No. 1 of 1996.

Subordinate courts, courts-martial and tribunals

108. These courts were established under section 127 of the Constitution of 1993 which states that Parliament may establish courts subordinate to the High Court, courts-martial and tribunals, and any such court or tribunal shall, subject to the provisions of the Constitution, have such jurisdiction and power as may be conferred on it by or under any law (see, e.g. The Subordinate Courts Order No. 9 of 1988, Central and Local Courts, Proclamation No. 62 of 1938).

109. The subordinate courts and tribunals are precluded from interpreting provisions of the Constitution. In the event that a subordinate court or tribunal is seized with the matter, and where any question as to the interpretation of the Constitution arises in any proceedings, if the subordinate court or tribunal is of the opinion that the question involves a substantial question of law, the subordinate court or tribunal shall, if any party to the proceedings so requests, refer the question to the High Court (sect. 128, Constitution).

Recent Developments in the judicial sector

110. The Civil Legal Reform project component under the Millennium Challenge Account-Lesotho and Millennium Challenge Corporation-US have put in place a programme aimed at the improvement of the private sector. The civil legal reform project centres on the improvement of the operations of the commercial court, introduction of the Alternative Dispute Resolution Mechanism – ADR, the small claims court, and improved case management for civil, criminal and commercial cases. A firm of consultants from Uganda has been engaged to assist the justice sector to implement this programme.

The Labour Court

111. The Labour Court was established under the Labour Code Order No. 24 of 1992, in terms of section 22 (1). It is presided over by a president appointed in terms of section 23 (1) (a). There is also provision for the appointment of deputy presidents as the Minister may consider necessary, as well as the appointment of two ordinary members (see sect. 23 (1) (b) and (c)).

112. The Labour Court, under section 24, has the power, authority and civil jurisdiction, to, *inter alia*, inquire into and decide the relative rights and duties of employers, employees and their respective organizations in relation to any matter referred to the Court under the provisions of the Code, and to award appropriate relief in cases of infringement. This Labour Court is not a subordinate court. It is a court of equity enjoined to keep the scales of justice in balance between the conflicting demands of employer and employee, as was held in the Court of Appeal case (CIV) No. 29 of 1995 between the Attorney-General and the Lesotho Teachers Trade Union and Others.

113. In the period November 1993 to March 1994, the office of Ombudsman received 44 complaints. Of these five were cases pending in court, six were cases in the competence of statutory bodies and three were considered too trivial to merit investigation.

The Public Service Commission

114. The Commission is one of the competent authorities having jurisdiction affecting human rights. The Public Service Commission was established under chapter XIII, section 136 (1), of the 1993 Constitution, which states that there shall be a Public Service Commission which shall consist of a chairman and not less than two or more than four other members, who shall be appointed by the King, acting in accordance with the advice of the Judicial Service Commission.

115. The Public Service Commission is charged with the responsibility of appointing public officers. Section 137 (1) provides that subject to the provisions of the Constitution, the power to appoint persons to hold or act in offices in the Public Service (including the power to confirm appointments), the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall be vested in the Public Service Commission.

The Judicial Service Commission

116. The Judicial Service Commission established in terms of section 132 (1) of the Constitution states that there shall be a Judicial Service Commission which shall consist of:

(a) The Chief Justice, as Chairman;

(b) The Attorney-General;

(c) The Chairman of the Public Service Commission or some other member of that Commission designated by the Chairman thereof; and

(d) A member appointed from amongst persons who hold or have held high judicial office who shall be appointed by the King acting in accordance with the advice of the Chief Justice and is hereinafter referred to as the appointed member.

117. Following are remedies available to an individual who claims that any of his rights have been violated: these are: habeas corpus, bail, declaration order, interdict and damages. With the exception of bail, which is provided for in section 99-117 of the Criminal Procedure and Evidence Act No. 7 of 1981, the rest of the remedies are what we call common law remedies. The term common law should not be confused with English

common law. It refers to the jurisprudence developed and expounded by Roman Dutch law jurists.

118. Section 99 (1) of the Criminal Procedure and Evidence Act provides that every person committed for trial or sentenced in respect of any offence except sedition, murder or treason may be admitted to bail at the discretion of the magistrate. Attempted murder and armed robbery were added by section 3 of the Criminal Procedure and Evidence Act (CPE) Amended Act No. 33 of 1984. Subsection (2) provides that the refusal by the magistrate who has committed any person for trial, to grant such person bail shall be without prejudice to such person's rights under section

119. As far as bail is concerned, it must not be excessive, otherwise the accused is entitled under section 108 to appeal. The section states that, where an accused person considers himself aggrieved (a) by the refusal of any magistrate to admit him to bail; or (b) by the magistrate having required excessive bail or having imposed unreasonable conditions, he may appeal against the decision of the magistrate to the High Court which shall make such order as seems just-in-the-circumstances.

120. The Court may impose very stringent conditions for bail if, in the opinion of the Court, the life of the alleged victim is still in balance, or the alleged victim remains critically ill for a long time, or is in coma for several months (see *Matsela Mongali and 14 Others v. The Director of Public Prosecutions*, Lesotho Law Reports and Legal Bulletin 1991-92, p. 106).

121. In practice, bail applications are heard by the High Court on Mondays. This is purely for administrative purposes, but not a legal requirement.

Institutional machinery with responsibility for overseeing the implementation of human rights

122. The Human Rights Unit of the Ministry of Justice has the responsibility to:

(a) Disseminate of information on human rights to law enforcement agencies, non-governmental organizations and other interested groups, and the public at large, through documentation, pamphlets, fact sheets, etc.;

(b) Mount of human rights training programmes for law enforcement agencies, non-governmental organizations and other interested groups;

(c) Monitor domestic legislation and ensuring its compatibility with international human rights instruments, to the extent permissible within the cultural and historical setting;

(d) Undertake reporting obligations to Parliament and United Nations committees on international human rights instruments ratified by Lesotho, e.g. the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child.

Police Complaints Authority

123. The Police Complaints Authority (PCA), is an oversight body that deals with public complaints against the police. The powers of the PCA are entailed in Section 22 of the Police Act of 1998. These can be cases of human rights violations during arrest, or any form of abuse of power by the police against members of the public. The filtering of cases of complaints against police misconduct, violation of human rights and abuse is a bit difficult because these cases have to be referred to the PCA by the Minister. The first place of original jurisdiction has to be the Minister's office. In cases where violations exist, the PCA cannot be ceased with the matter until the Minister has referred it to the PCA.

III. General legal framework within which human rights are protected

A. Legal framework

124. The democratic Government of Lesotho places a high premium on respect for, and promotion and-protection-of-human-rights. Fundamental human rights and freedoms are protected in chapter II of the 1993 Constitution of Lesotho, which is the supreme law of the land. They include the right to life, the right to personal liberty, freedom of movement and residence, freedom from inhuman treatment, freedom from slavery and forced labour, freedom from arbitrary search or entry, the right to respect for private and family life, the right to fair trial, freedom of conscience, freedom of expression, freedom of peaceful assembly, freedom of association, freedom from arbitrary seizure of property, freedom from discrimination, the right to equality before the law and equal protection of the law, and the right to participate in Government.

125. In addition to the Constitution, there are statutes which affect the enjoyment of the above-mentioned rights. These statutes will be reviewed by a Law Reform Commission which was established by The Law Reform Commission Act No. 5 of 1993 and whose terms of reference include the review of those laws that are not compatible with the 1993 Constitution; suggestions for repeal of laws which are archaic and unconstitutional; and consolidation of laws. Among the laws to be reviewed are: Part III of the Internal Security Act No. 24 of 1984, dealing with detention for investigation of subversive activities; section 42 of the Criminal Procedure and Evidence Act (CP&E) 1981 authorizing the killing of fleeing suspects; section 229 (2) of the CP&E on the admissibility of pointing out evidence which is otherwise inadmissible; section 34 of the Police Order 1971 dealing with prescribed actions; section 178 (6) of the Defence Force Order No. 17 of 1993; the laws governing the police, military and Security Service which will provide for a stricter regulation of the use of firearms (these laws should actually prohibit the retention of service firearms by members of the respective services when they are off duty); regulations for the three above-mentioned services setting out a code of conduct for those responsible for the arrest, detention and interrogation of suspects (the code should specifically prohibit the use of torture and inhuman or degrading treatment); the Inquest Proclamation No. 37 of 1954 in order to empower the Director of Public Prosecutions to initiate the holding of inquests; section 30 of the Finance Order 6, 1988 relating to surcharges to be strictly enforced whenever the State has had to compensate victims of the use of force by police and the security forces.

126. Principles of State policy are contained in chapter 3 of the 1993 Constitution. They are, however, not enforceable by any court, but are subject to Lesotho's economic capacity and development. These principles of State policy entail rights of a socio-economic nature, and include equality and justice, protection of health, provision for education, opportunity to work, just and favourable conditions of work, protection of workers' rights and interests, protection of children and young persons, rehabilitation, training and social rehabilitation of disabled persons, economic opportunities, participation in cultural activities and protection of the environment.

(2) Where a person is detained by virtue of any such law as is referred to in subsection (I) the following provisions shall apply.

(a) He shall, as soon as reasonably practicable after the commencement of his detention, be furnished with a statement in writing in a language that he understands specifying in detail the grounds upon which he is detained;

(b) Not more than fourteen days after the commencement of his detention notification of his detention shall be published in the Gazette stating that he has been detained and giving particulars of the provisions of law under which his detention is authorised.

(c) Not more than one month after his detention, and thereafter during his detention at intervals of not more than six months, his case shall be investigated by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice;

(d) He shall be afforded reasonable facilities to consult a legal representative of his own choice who shall be permitted to make representations to the tribunal appointed for the investigation of the case of the detained person; and

(e) At the hearing of his case by the tribunal appointed for the investigation of his case he shall be permitted to appear in person or by a legal representative of his own choice.

(3) On any investigation by a tribunal in pursuance of this Section of the case of a detained person, the tribunal shall make recommendations concerning the expediency of continuing his detention to the authority by which it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendation.

B. Non-discrimination and equality before the Law

127. Section 18 specifies that no law shall make any provision that is discriminatory, except where it is the application of customary law on adoption, marriage, divorce, burial and devolution of property under section 4. Where there has to be differential treatment in respect of standards of qualifications, not based on race, sex, language, religion, and other status this according to section 18 subsection 5 shall not be regarded as discrimination. Section 18 subsection (7) provides that

> No person shall be treated in a discriminatory manner in respect of access to shops, hotels, lodging houses, public restaurants, eating houses, beer halls or places of public entertainment or in respect of access to places of public resort maintained wholly or partly out of public funds or dedicated to the use of the general public.

128. Section 18 (4) (a) (b) and (c) of the constitution allows for the application of legislation and laws, including customary laws, which are discriminatory in nature. Section 18 (4)(1) specifies that "discrimination" shall not apply to any law to the extent that the law makes provision –

(a) With respect to persons who are not citizens of Lesotho; or

(b) For the application, in the case of persons of any such description as is mentioned in subsection(3) or of persons connected with such persons, of the law with respect to adoption, divorce, marriage, burial, devolution of property on death or other like matters which is the personal law of persons of that description; or

(c) For the application of the customary law of Lesotho with respect to any matter in the case of persons who, under that Act law, are subject to that law.

129. In regard to section 18(4)(a) the distinction that the constitution makes shall not be regarded as discrimination, as matters of aliens control, the entry and sojourn into any country are subject to the fulfilment of procedures set in the country's internal procedures. The Aliens Control Act No. 16 of 1966 provides for a procedure to be followed in section

5. which is to be followed by all who want to enter, stay temporarily or for a longer period in Lesotho.

130. Section 3 and section 38 of the said Act provides that no alien shall enter or remain in Lesotho for: the indefinite sojourn therein, unless he is in possession of a permit for the said purpose, issued in terms of section 6 the Act which provides that:

> An application by an alien for a permit to enter Lesotho for the purpose of indefinite sojourn therein shall be made before his entry into Lesotho, in the form and manner prescribed by regulation, shall contain the information for which provision is made in the said form and shall be submitted to the Minister in a manner and by means prescribed by regulation.

131. For the purpose of temporary sojourn therein unless he is in possession of a temporary permit issued in terms of subsection (1) of section 7 or unless he has been permitted to enter under section 9 of the Act which provides that:

> This section shall apply to a distinguished visitor, a regular visitor for business or official purposes, an employee of officer of any Government or Public Corporation, and a director, officer or employee of a firm engaged in work in Lesotho under contract with the Government of Lesotho.

132. And for the purpose of travel therein or for the purpose of a visit for private. Business or official purposes unless he is in possession of a valid passport. Any alien who contravenes these sections if found in Lesotho, and in possession of a valid official documents, can be charged under the aforesaid sections and if found guilty may be expelled from Lesotho. In so far as access to remedies in the courts of law of Lesotho are concerned, both the citizens of Lesotho and the alien population in the country enjoy the same rights. The right to have access in the local courts of the land is the same. Sections 18 (4) (a)(b) and (c) of the Constitution have however not been amended, but laws that enhance the legal status of women have been enacted since the year 2000. These laws include the Speedy Court Trials Act no of 2000, the Sexual Offences Act No. 3 of 2003, the Legal Capacity of Married Person's Act No. 9 of 2006, the Land Act No. of 2010, including the Education Act of 2010.

133. The preamble of the Legal Capacity of Married Person's Act No. 9 of 2006, provides that the purpose of the Act is: to provide for the removal of minority status of women and to provide for incidental matters.

134. This Act provides for the removal of minority status of women and marital power of the husband over the person and the property of the wife with regard to administration of joint estate, Common law Customary law and any marriage rules.

135. Section 3 thereof abolishes the marital power over the person and property of his wife, and the section reads as follows:

> 3. (1) Subject to the provisions of this Act, with regard to the *administration of a joint estate*. The common law, customary law and any other marriage rules in terms of which a husband acquired the marital power over the person and property of his wife are repealed.
>
> (2) The marital power which a husband has over the person and property of his wife before the commencement of this Act is repealed.

136. This law has been a landmark piece of legislation that has emancipated the Basotho women, while also according men and women an equal footing when it comes to the enjoyment of property rights in terms of acquisition of property through registration of the immovable property and disposal through appropriate consultation with the husband, the freedom to contract, the right to sue and to be sued in one's own capacity and name, acting

as a director of a company, acting as a trustee of an estate, binding herself as surety and performing any other act which was restricted by any law due to the marital power before the commencement of the Act. The Labour Code Order No. 24 of 1992 under section 5 also prohibits any form of discrimination at the work place. Section 5(3) specifically prohibits discrimination on remuneration between men and women for work of equal value.

137. The Sexual Offences Act No. 3 of 2003 provides equality in the enjoyment of rights between men and women, and children by creating stringent penalties in situations where one compels another to engage in sexual acts or induces another by false pretence to engage in sexual relations. The law also creates offences in respect of situations where children are lured into sexual activities because of certain favours or rewards. The Sexual Offences Act has therefore created equality before the law through affording rights to all persons including legal protection.

138. The Speedy Courts Trial Act of 2000 is also another important Act in this regard.

139. The Land Act No. 8 of 2010 in section 6 (1)(b)(i) gives title to land to a person who is married. This section does not qualify or lay a condition on the marriage status of any woman. The section to this extent promotes equality between men and women. The Education and Training Act of 2010 has on the other hand provided free and compulsory access to education of all children of a school going age. This law has placed an obligation on the compulsory attendance of school on all children of a school going age, including the heard-boys. The Education Act also imposes a penalty where a child who should be found in school is not found to be in school. The new law creates a penalty in this regard.

The Children's Protection and Welfare Act 2011

140. The Act protects the rights of children in Lesotho. Amongst the key principles under-laying this Act are the requirement to provide children's rights and protection measures on a non-discriminatory basis. This principle of non-discrimination is a core principle in the interpretation of the Convention on the Rights of the Child.

Application of Non-Discrimination on Economic, Social and Cultural Rights

141. The Economic, Social, and Cultural Rights of the People are enshrined in the Constitution under Chapter III as Principles of State Policy. These are only principles, which are dependent on the economic capacity and development of Lesotho. They are not legal norms that are enforceable in the courts of law. By their virtue they are non-justiciable, meaning that they cannot be contested in a court of law.

142. Section 26 of the constitution further provides for the enhancement of the foregoing principles ot state policy without discrimination thus:

> (1) Lesotho shall adopt policies aimed at promoting a society based on equality and justice for all its citizens regardless of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
>
> (2) In particular, the State shall take appropriate measures in order to promote equality of opportunity for the disadvantaged groups in the society to enable them to participate fully in all spheres of public life.

143. The notion of non-discrimination is subsequent to Section 18 on freedom from discrimination and Section 19 which deals with the right to equality before the law and equal protection of the law in Chapter II of the Constitution.

Derogation, Limitation, Restriction and Claw-back Clauses

144. With respect to derogation, the Constitution provides in section 21 (1) that

> (1) nothing contained in or done under the authority of an Act of Parliament shall be held to be inconsistent with or in contravention of section 6 (Right to personal liberty), section 18 (Freedom from discrimination), or section 19 (Right to equality before the law and equal protection of the law) of this Constitution to the extent that the Act authorises the taking, during any period when Lesotho is at war or when a declaration of emergency exists under section 23 of this Constitution, of measures that are necessary in a practical sense in a democratic society for dealing with the situation that exists in Lesotho during that period.

C. The Framework of Ratification and Domestication of International Human Rights Instruments

Status of Ratification and Domestication

145. In Lesotho, international human rights instruments and norms are non-self-executing, and not directly applicable in the legal jurisdiction of the country. Lesotho follows the English common law approach, whereby international human rights conventions may not be directly invoked by the courts in the protection of human rights, because they are not themselves part of the domestic law. These international human rights instruments have to be transformed into domestic law by Parliament in order to be enforceable. However, The Commonwealth Bangalore Principles of 1989, and the Harare Declaration of 1990 both provide for the incorporation and interpretation of human rights norms. Where the domestic law is silent on a legal issue, or inconsistent or non-protective of an individual's human rights, the Bangalore Principles and the Harare Declaration provide that resort may be made to international human rights standards for purposes of interpretation and protection.

146. Lesotho as a sovereign state has signed, ratified and acceded to many international human rights instruments in furtherance of her civil, political, economic, social, cultural, environmental, and ecological development. The most pertinent and core International Human Rights instruments were ratified by Lesotho in 1992, prior to March 1993, which was a period in preparation of the very first democratic elections of Lesotho. This was after twenty-six years of undemocratic governance. Lesotho prepared herself for the democratisation process through the promotion of multi-party democracy, the rule of law, and good governance. In her preparatory process for democratic elections, Lesotho levelled the playing ground by becoming a party to many pertinent and relevant international and regional human rights instruments. In December 1992, Lesotho ratified both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and cultural Rights (ICESCR), both of 1966. At the domestic level, laws that enhance the status of women by eliminating discrimination and achieving equality, have been enacted since the year 2000. These include legislation such as The Speedy Court Trials Act of 2000, The Sexual Offences Act No. 3 of 2003, and The Legal Capacity of Married Person's Act No. 9 of 2006. The Legal Capacity of Married Person's Act in its preamble provides for the removal of the minority status of women, and makes provision for other incidental matters.

147. The Convention on the Rights of the Child (CRC) of 1989 was ratified by Lesotho in April, 1992. Lesotho presented her initial report to the Committee on the Rights of the Child (CRC) in 2001. The committee on the Convention on the Rights of the Child (CRC), amongst many other concluding remarks and observations, recommended the enactment of a revised children's protection act, that would incorporate all the under-laying principles of

the convention on the Rights of the Child. These principles include a child's right to identity, non-discrimination, the best interest of the child, and special protection against abuse and neglect. The Child Protection and Welfare Bill embracing all the major aspects of the convention on the rights of the child such as the identity of the child, the non-discrimination of the child on any basis, special protection rights of orphaned children, abused children, neglected children, and children in need of protection who are in conflict with the law. This bill which has taken a slightly lengthy time to be enacted due to stakeholder consultative meetings, has now gone through the Parliamentary committee on Law, Justice and Parliamentary Affairs. The Child Protection and Welfare Bill of 2010 is now ready to go to the National Assembly for tabling, parliamentary debate, and enactment.

148. Lesotho also ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) of 1979, on the 22nd of August, 1995, just prior to the 4th World Conference on Women that was held in Beijing, China. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was ratified with a reservation to article 2(2). The reservation upheld that succession to the chieftainship of Lesotho shall continue along the male issue only, and that customary law shall continue to apply as provided for in section 18 (4) (a) (b) (c) and (d). The constitution in this regard provides that, "any law that applies to persons who are not citizens of Lesotho shall not be regarded as discrimination." According to section 18, subsection "b" of the constitution, matters of customary law with regard to adoption, marriage, divorce, burial, devolution of property, and other like matters in the personal law of persons shall not be regarded as discrimination.

149. In keeping with the Vienna Convention on the Law of Treaties, State Parties are required to keep under constant review, the reservations they make, with an objective of withdrawing them in order not to undermine the purpose and the spirit of the treaty. The international law of treaties is aimed at state party ratification of international human rights conventions and treaties in good faith. That is, the ratification of these obligations must not undermine the fundamental objectives of the conventions and the treaties.

150. Lesotho's ratification of CEDAW was with a reservation that touched the very root of the intention of the convention, which was the unreserved equality of men and women in all aspects and spheres of social, political, economic, and cultural life. However, Lesotho reviewed the reservation substantially in 2001, and made a partial withdrawal of the reservation by uplifting the enforcement of matters on the application of customary law in personal matters of adoption, marriage, burial and succession. The partial reservation which remains in place to date is that which relates to succession to the chieftainship. The succession to the throne and to the monarchy in Lesotho, including that of succession to the chieftainship has been left with the college of chiefs which is empowered by the Chieftainship Act of 1968 to decide on the line of succession in chieftainship matters. The Legal Capacity of Married Person's Act No. 9 of 2006 has removed the minority status of married women, and the husband's marital power over the person and property of the wife. The Act in section 5 provides equal powers to spouses married in community of property, and in consultation with one another the power to dispose of the assets of the joint estate, contract debts for which the joint estate is liable and administer the joint estate.

151. The Act specifically provides in section 5 that:

> Spouses married in community of property have equal capacity to do the following in consultation with one another-
>
> (a) Dispose of the assets of the joint estate;
>
> (b) Contract debts for which the joint estate is liable; and
>
> (c) Administer the joint estate.

152. The Legal Capacity of Married Person's Act in Section 4 and in so far as women married in community of property are concerned, it has mandatorily been made to apply to any marriage in community of property, irrespective of the date on which the marriage was entered into. The act in this regard has a retro-active interpretation, which allows even those who got married prior to the enactment of the law to benefit from its provisions. The Legal Capacity of Married Person's Act has removed all legal limitations that were previously imposed by law on women married in community of property, and had the marital power of the husbands exercised over them. These included the inability to enter into a contract, to sue or be sued in one's own name, registering immovable property in one's own name, acting as a director of a company, and being a trustee of a trust.

153. The Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT) of 1981 was ratified on the 12th of December, 2001. The initial report on the implementation of this convention is currently undergoing preparation. It is anticipated that by November, 2010 it shall be ready. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) of 1971 was ratified by Lesotho in 1971. In 2002, Lesotho presented her periodic report before the International Committee on the Elimination of Racial Discrimination – (ICERD). In its concluding remarks and observations, the committee raised a concern regarding the absence of a comprehensive legislative framework that prohibits acts of racial discrimination and xenophobia, including the absence of effective remedies. The Race Relations (Amendment) Act that was enacted, makes provision for the teaching of tolerance, and the peaceful co-existence of people of diverse origins. The Act further imposes a penalty to those who commit the crime of racial discrimination.

154. At the regional level, the African Charter on Human Rights and People's Rights (ACHPR) of 1981 was ratified by Lesotho on the 28th of May 1992. The country's initial report was tabled and discussed with the African Commission on Human Rights in May, 2002. The African Charter on the Rights and Welfare of the African Child (ACRWAC) was ratified in November, 1999. Lesotho's initial report under this charter has not yet been prepared. This has all been due to the challenges of limited capacity on the part of the Ministry of Justice, that is charged with the responsibility to coordinate the preparation of the state party reports. In future it would seem that the Ministry might need to resort to a strategy of outsourcing the work, in order to be up to date. Lesotho has committed herself under the First Annual Progress Report on African Peer Review Mechanism of June, 2010 to establish an updated electronic depository bank for all international instruments signed, ratified and acceded to, including making progress reports on the implementation of these instruments. This commitment includes human rights instruments which Lesotho has ratified. Lesotho has to date updated the treaty list showing Lesotho's international obligations from 1997 to 2009, and published it. The African Charter on Democracy, elections and governance in Africa including the African Youth Charter have both been recently ratified by Lesotho at the African Union (AU).

International Humanitarian Law

155. In its declaration of succession of 20 May, 1958 the United Kingdom signed and ratified the four Geneva Conventions on international humanitarian law as part of international humanitarian standards that are binding on Lesotho. The four Geneva Conventions that are binding on Lesotho are: Convention relative to the Treatment of Prisoners of War of 12 August, 1949, Convention for the Amelioration of the Condition of the Wounded, sick and Shipwrecked Members of the Armed Forces at Sea; Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, and Convention relative to the Protection of Civilian Persons in Time of War.

156. Lesotho became bound by these conventions retroactively as from 4 October1966, being the date on which Lesotho became independent. Lesotho also acceded to the Additional Protocols to the four Geneva Conventions in 1977. These are on the protection of historical, cultural and artistic monuments, including national symbols during situations of internal armed conflict and external armed conflict. Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field 1949, Geneva Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea 1949, Geneva Convention (III) relative to the Treatment of Prisoners of War 1949, Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva 1949,Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) 1977, Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) 1977, Ottawa Convention on the Prohibition of the Use, of Stock-piling, Production and Transfer of Anti-Personnel Mines and On Their Destruction 1987, The Geneva Conventions have all been incorporated in the mandate of the Red Cross Society Act of 1967.

157. At the national level, an ad hoc national committee for humanitarian law was set up in March 2001. It comprises representatives from different ministries such as Foreign Affairs, Defence, Law and Constitutional Affairs, Home Affairs, Health, Education, the Police Service and Justice, including the Lesotho Red Cross Society. This committee has played a pivotal role in advising the government on matters relating to the ratification and / or accession to humanitarian conventions; establishing education and training programmes; preparing studies on international humanitarian law; identifying and preparing measures for the implementation of international humanitarian law including the monitoring of the implementation of international humanitarian law.

ILO Conventions

158. Lesotho is a member of the International Labour Organisation – ILO, and a party to most International Labour instruments on the minimum standards on labour relations and the protection of the rights of workers. Lesotho has ratified almost all of the most pertinent ILO instruments such as the Minimum Age (Industry), of 1919 Right of Association (Agriculture Convention of 1921, Weekly Rest (Industry) Convention 1921, Equality of Treatment (Accident Compensation) Convention – 1925, Minimum Wage – Fixing Machinery Convention of 1928, Forced Labour Convention -1930, Underground Work (Women) Convention – 1935, Contracts of Employment (Indigenous Workers) – 1939, Penal Sanctions (Indigenous Workers) Convention – 1939, Labour Inspection Convention - 1947, Freedom of Association and the Protection of the Rights to Organise Convention 1948, Rights to Organise and Collective Bargaining Convention – 1949, Equal Remuneration Convention of 1957, Discrimination (Employment and Occupation Convention 1958, Workers Representatives Convention of 1971, Minimum Age Convention of 1973, Tripartite Consultation (International Labour Standards) Convention of 1976, Labour Administration Convention of 1978, Occupational Safety and Health Convention of 1981, Termination of Employment Convention of 1988, Worst Forms of Child Labour Convention of 1999.[17]

159. Lesotho is also a party to various international standards pertaining to Occupational Health and Safety, including the Occupational Safety and Health Convention No. 155 of 1981, and the Safety and Health in Construction Convention No. 167 of 1988.

[17] Status of Ratification of ILO conventions has been sourced from APRM Report

160. Lesotho has made a tremendous effort towards the promotion and implementation of the various international labour standards to which she is a party. Lesotho as a country has a very robust labour law framework at the domestic level. The Labour Code Order No. 24 of 1992 is the core national legislation on laws relating to and regulating employment matters in Lesotho. The Labour Code (Amendment) Act No. 3 of 2000 has established the Labour Appeal Court and defined the jurisdiction of the court including the legal mandate. The act further amends the order to establish the Industrial Relations Council and the Office of the Director of Dispute Prevention and Resolution, which provides for the conciliation and arbitration of disputes. The Labour Code (Directorate of Dispute Prevention and Resolution) Regulations Legal Notice No. 194 of 2001 makes provision for the procedure to be adopted in the referral and filing of cases before the DDPR. Other pieces of legislation on labour issues include the Labour Code (Codes of Good Practice) notice 2003.

161. The Labour Code (Conciliation and Arbitration Guidelines) Notice No. 1 of 2004 has also been enacted. The Labour Code Order of 1992 has recognised the right to form trade unions. The code specifically guarantees all workers and employers the right of association in all sectors of the economy, including agriculture. Public Officers are governed by the Public Service Act of 2005. The act provides for the freedom of association by public officers through the formation of association and not trade unions. Currently there are three trade union centres, and forty three unions. In regard to occupational safety and health, Lesotho has developed laws relating to safety in wielding and cutting, spray painting, noise, construction and the use of chemicals.

162. While efforts have been made by the Government to create a conducive legislative environment on the employer and employee relations at the workplace, workers and employers do face some challenges, particularly with the textile industry over benefits of people such as the sick leave, and funeral leave due to the extremely high HIV and AIDS prevalence rate that has also hit the textile industry. Workplace legislation on the protection of people with HIV and AIDS has also been enacted. This piece of legislation provides for the non-discrimination of workers affected and infected with the HIV and AIDS pandemic.

163. Although there seems to be a satisfactory record on the status of ratification of the ILO instruments, workers in the textile industry are faced with challenges that emanate from their employers. Such challenges include issues of privacy and confidentiality of medical reports as basic issues of human rights where there are actual medical diagnosis of HIV and AIDS. Female workers have raised concerns about the adequacy of maternity leave, which in some cases was said to be as short as one week, as distinct from the legally mandated three months period.

Millennium Development Goals-MDG's

164. The Millennium Development Goals (MDG'S) emanating from the Millennium Summit that was held in December, 2000, have emerged as a key strategic tool for amongst other things promoting sustainable Human Development at the country level. The MDGs represent a simplified framework for monitoring international commitments of countries, and are a rallying point for all partners and stakeholders to participate in a broad based campaign for development results. Lesotho is a signatory to the Millennium Declaration which was adopted by the United Nations in September, 2000. As much as Lesotho is still facing challenges of combating the HIV and AIDS pandemic, and extreme hunger and poverty, Lesotho however remains committed to the attainment of the Millennium Development Goals (MDG'S). The Millennium Development Goals (MDG'S) have been spelt out as: Eradication of extreme poverty and hunger, achieving Universal Primary Education, Promoting gender equality and empowerment of Women, Reducing Child Mortality, Improving Maternal Health, Combating HIV and AIDS, malaria and other

diseases, Ensuring Environmental Sustainability, and Developing a global partnership for Development.

165. Lesotho's achievements and progress to date regarding the millennium development goals has been recently noted in the Lesotho Millennium Development Goals Report of 2010, which was presented at the 2010 session of the General –Assembly in New-York, United States of America by The Right Honourable the Prime Minister of Lesotho. According to this report, the achievements of Lesotho have been as follows in the different social sectors:

IV. Information and publicity

A. Government efforts on promotion and dissemination of human rights

166. The Human Rights Unit among its three pronged mandate of the promotion, protection and reporting on human rights has the mandate to promote human rights through the dissemination of information on human rights to law enforcement agencies, non-governmental organizations and other interested groups and the public at large. To this end-the-Human-Rights-Unit-has-had:

(a) Human Rights Training programmes for Law Enforcement Agencies on critical operational issues such as the use of force by law enforcement agencies, the code of conduct for the law enforcement agencies, the application of application and enforcement of International Humanitarian Law that The Irish Aid and The United Nations Development Programme (UNDP) have sponsored jointly in 2009 under the Governance programme. These training programmes have continued into 2010 with the further training of other levels of responsibility of the Law Enforcement Agencies, including the Parliamentarians funded by The United Nations Development Programme (UNDP) Governance Programme.

(b) Human Rights public awareness campaigns were held by the inter-ministerial human rights committee on topics such as maintenance, succession and inheritance, guardianship and protection of minors by the master of the high court, bail pending criminal prosecution, and issues of child protection and welfare.

(c) Radio programmes sensitising the nation about human rights issues on topics that were dealt with in the human rights awareness campaign were held in 2009 in the local radio stations that have included Mo-Africa radio station, Radio Lesotho, and Catholic Radio.

(d) Under the United Nations Development Programme (UNDP) and Irish Aid, the Government has been granted support for the establishment of the National Human Rights Commission. In 2007, two missions were undertaken by an external and an internal consultant with the aim of assisting the government in the setting up of the Human Rights Commission. A two pronged assignment was undertaken, with the first output of a draft legislation on the establishment of a commission that would function as an oversight body that responds to issues of human rights abuses and violations. The Human Rights Commission draft bill in its mandate establishes the human rights commission, defines the composition of the commission, its powers, and procedural operation. In its composition, the bill has encouraged gender balance in the appointment of the human rights commissioners. The operational modality and administrative machinery for the implementation of the commission has also been completed, in terms of budgetary costing and human resource requirements. The National Commission on Human Rights will therefore be established soon and it will be charged with the responsibility to investigate human rights abuses and will inspect and monitor places where human rights violations are

likely to take place, such as correctional centres, police stations, and any other places of custody or detention.

(e) Lesotho acceded to the African Peer Review Mechanism (APRM) in July, 2004 as a demonstration of its unwavering support to pursue democratic governance. The review process commenced with a consultative workshop, following which a sub-committee of Ministers was set up and a country APRM focal point established. A broad-based and all inclusive APRM National Governing Council (NGC) was set up to manage the APRM process in the country. The self-assessment process was conducted by a consortium of local technical research institutes; namely the Institute of Southern African Studies of the National University of Lesotho, the Lesotho Public Administration and Management in the Ministry of the Public Service. Lesotho submitted her self-assessment Report and Programme of Action in November, 2008 paving way for fielding of a Country Review Mission. The Country Review Mission was fielded in 2009, comprising of fourteen members, and at least ten African nationalities. The mission interacted with the legislature, the executive, and the judiciary. The mission also held discussions with various non-state stakeholder groups, and met with institutions with a bearing on aspects of transparency and accountability in governance such as the Independent Electoral Commission (IEC), Auditor-General (AG), and the Central Bank of Lesotho (CBL). The APRM mission concluded its sessions with the cabinet (is it the cabinet or the ministerial sub-committee of ministers) and the National Governing Council. Subsequently, Lesotho was assessed at the 11th Forum Summit of the Peer Review Mechanism which was held in Libya in June, 2009. In June, 2010 Lesotho submitted the First Annual Progress Report under the African Peer Review Mechanism (APRM) on the progress made in the implementation of Lesotho's APRM action plan.

B. Non-governmental efforts in the dissemination of human rights (TRC and LCN to provide information)

167. In Lesotho, there are many NGOs operating who assist the family, especially for the empowerment of women. These include the Lesotho National Council of Women (LNCW), Federation of Women Lawyers (FIDA), Women and Law in Southern Africa (WILSA), and Community Legal Resource and Advice Centre (CLARC).

168. World Vision in Lesotho has an Advocacy section, which focuses on the family and the home. These projects help in educating the parents on the problems of not sending the children to school and the affects that abuse can have on children, as well as promoting a child protection policy.

C. Mechanisms on the preparation of state party reports (Human Rights Unit)

169. The responsibility to coordinate the reporting process of international and regional human rights instruments ratified by Lesotho belongs to the Human Rights Unit of the Ministry of Justice. Human-Rights-and-the-Correctional-Service.-The-Human-Unit has been given this mandate through cabinet decision of 11th September, 1995. The Human Rights was faced with the task even prior to receiving any form of training on reporting obligations. In 1995 human rights officers in the Unit participated in a regional training programme organised by the Commonwealth Secretariat in Lusaka, Zambia. Following this training, ad hoc inter-ministerial committees were set up for the preparation of the initial reports of the ICCPR and the CRC.

170. Key line ministries such as education, health, labour, justice, home-affairs and others were asked to nominate representatives who could serve on the committees and assist with the data collection, write up, and collation of those aspects of the report that were relevant to their work mandate. The Committee responsible for the compilation of the initial ICCPR report was fully coordinated within the Ministry of Justice, while for the CRC was a shared responsibility between The United Nations Children's Fund (UNICEF), and the Ministry of Justice.

171. UNICEF provided technical assistance during the compilation of the CRC. The compilation of the report on the International Convention on Racial Discrimination (ICERD) was also compiled using the strategy of the ad hoc committee system. During the preparation of The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) the Ministry of Justice working jointly with the Ministry of Gender outsourced the work by public tender. External Consultants were engaged to compile the report. The United Nations Population Fund (UNFPA) also provided an expert who teamed up with the local consultants to prepare the report. Currently, with respect to the second and the third periodic reports of the ICCPR, and the initial report of the International Covenant on Economic Social and Cultural Rights (ICESCR) the Ministry invited consultants by public tender to assist in the preparation of the reports. Convention Against Torture (CAT) is being prepared under the auspices of the Ministry.

172. The Ministry of Justice has also established an inter-ministerial committee on reporting that is made up of all relevant core line ministries which bear greater responsibility in the generation of essential data for reporting purposes. The inter-ministerial committee is coordinated by the Human Rights Unit of the ministry of Justice. Many reporting skills training programmes have been attended by the committee under the auspices of the Southern Africa Human Rights Trust (SAHRIT) and its subsidiary organs.

173. The process of the preparation of the various human rights reports involves a combination of many different strategies. This is mainly because there are a number of challenges that still face Lesotho when it comes to the compilation of state party reports in Lesotho:

Challenges

174. The Human Rights Unit has had a staff complement of three full time human rights officers since 1995 to date. Since the Unit is responsible for the promotion, protection and reporting functions, the staff of three officers is limited for the effective discharge of the mandate of the Unit. Reporting requires thorough training of those charged with the reporting function, in at least the major and the most pertinent human rights instruments.

175. Despite the fact that the Ministry has tried to get the relevant exposure through training, it is difficult for the Unit to be up to date with the reporting obligations because the Unit is generic and not specialised. A specialist Unit is necessary if Lesotho is to avoid a huge backlog of her reporting obligations to UN treaty bodies and regional bodies. The speedy establishment of the Human Rights Commission will assist in this regard because the functions of promotion and protection will be with the ambit of the commission. Other generic tasks of the Ministry that are still performed by the Unit will also need to be transferred to other departments, in order to allow the Unit to have time to prepare the reports.

176. Officers from other line ministries who are tasked with the function of reporting have other tasks which they must perform. As a result reporting is a function which is not yet a top priority to them.

177. There is a need also to have a central data information centre in addition to the Bureau of Statistics, where all the necessary legislative, judicial, administrative, policy and operational information can be found during the compilation of the state party reports.

178. A rolling plan on the training of all experts is needed cross all Government Ministries, and in particular the ministries of Justice and Foreign-Affairs as the two responsible line Ministries in this matter.

D. Procedure for the domestication of international human rights norms

179. Once the Head of State, the Head of Government or the Minister of Foreign Affairs have performed acts relating to the conclusion of treaties in accordance with Article 7 (2) of the Vienna Convention on the Law of Treaties, a state party now has the legal obligation to domesticate the provisions of the International Human Rights instrument(s) that the state has ratified or acceded to. Lesotho by virtue of her legal system follows the English common law. As a result, international human rights conventions are non-self executing, meaning that they do not apply directly in the legal system of Lesotho. However, in regard to International Labour Conventions, The Labour Code No. of 1992 provides in section 4 that, " International labour conventions adopted by the conference, shall be directly invoked where the national laws on labour issues are silent, ambiguous or non-protective of the rights of those affected." In respect of international human rights conventions, a domestic law is normally drafted that is aligned to the provisions of the convention which is being implemented. The Child Protection and Welfare Bill of 2010 has been enacted, aligned to the Convention on the Rights of the Child – (CRC). Where a convention has been ratified, it can also be tabled directly to the national assembly for direct consideration and adoption of those provisions which it considers to be appropriate for direct implementation.